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The Commonwealth of Massachusetts

THE WORKMEN'S COMPENSATION ACT

General Laws — Chapter 152

Including amendments through Legislative Year 1974

DIVISION OF INDUSTRIAL ACCIDENTS
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PUBLICATION OF THIS DOCUMENT APPROVED
BY ALFRED C. HOLLAND, STATE PURCHASING AGENT

15M-11-74-092112

Estimated Cost Per Copy $.463

The Commonwealth of Massachusetts

THE WORKMEN'S COMPENSATION ACT

AND

RULES OF THE INDUSTRIAL ACCIDENT BOARD

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The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

Workmen's Compensation

GENERAL LAWS, CHAPTER 152

(Including index, amendments through legislative year 1974, and rules.)

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Section 1. The following words as used in this chapter shall, unless a different meaning is plainly required by the context or specifically prescribed, have the following meanings:

(1) "Average weekly wages", the earnings of the injured employee during the period of twelve calendar months immediately preceding the date of injury, divided by fifty-two; but if the injured employee lost more than two weeks' time during such period, the earnings for the remainder of such twelve calendar months shall be divided by the number of weeks remaining after the time so lost has been deducted. Where, by reason of the shortness of the time during which the employee has been in the employment of his employer or the nature or terms of the employment, it is impracticable to compute the average weekly wages, as above defined, regard may be had to the average weekly amount which, during the twelve months previous to the injury, was being earned by a person in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district. In case the injured employee is employed in the concurrent service of more than one insured employer or self-insurer his total earnings from the several insured employers and self-insurers shall be considered in determining his average weekly wages. Weeks in which the employee received less than five dollars in wages shall be considered time lost and shall be excluded in determining the average weekly wages; provided, however, that the exclusion shall not apply to employees whose normal working hours in the service of the employer are less than fifteen hours each week.

St. 1911, c. 751, Pt. V. § 2, original enactment.

St. 1935, c. 332, § 1, effective September 3, added last two sentences relating to computation where employee is employed concurrently by more than one insured employer and where he receives less than five dollars in wages.

St. 1943, c. 529, § 1, effective November 15, inserted words "or self-insurer" and "and self-insurers."

(2) "Division", the division of industrial accidents.

St. 1953, c. 314, § 2, effective May 30, inserted words "division" in place of word "department."

(3) "Dependents", members of the employee's family or next of kin who were wholly or partly dependent upon the earnings of the employee for support at the time of the injury or at the time of his death.

St. 1950, c. 738, § 1, effective November 6, added words "or at the time of his death."

(4) "Employee", every person in the service of another under any contract of hire, express or implied, oral or written, excepting masters of and seamen of vessels engaged in interstate or foreign commerce, persons employed to participate in organized professional athletics, while so employed, if their contracts of hire provide for the payment of wages during the period of any disability resulting from such employment, persons employed by an employer engaged in interstate or foreign commerce but only so far as the laws of the United States provide for compensation or for liability for their injury or death, and a person whose employment is not in the usual course of the trade, business, profession or occupation of his employer, but not excepting a person conclusively presumed to be an employee under section twenty-six of this chapter.

Notwithstanding the provisions of section one hundred of chapter forty-one, any reserve or special police officer who is employed by a contractor for the purpose of directing or maintaining traffic or other similar purposes upon any way which is being constructed or reconstructed or upon which other types of construction projects are in progress under contract with the state department of public works or the metropolitan

district commission or any city or town, and who is paid directly for such services by a contractor engaged in the performance of such a contract with said department or commission or city or town, shall be conclusively presumed to be an employee of such contractor while so employed and paid; and, notwithstanding any contrary provision of law, the compensation provided by this chapter shall be paid to any such police officer receives an injury arising out of and in the course of such employment, or in case of death resulting from such injury, to the persons entitled thereto.

The provisions of this chapter shall remain elective as to employers of seasonal or casual or part-time domestic servants. For the purpose of this paragraph, a part-time domestic servant is one who works in the employ of the employer less than sixteen hours per week.

Any reference to an employee who has been injured shall, when the employee is dead, also include his legal representatives, dependents and other persons to whom compensation may be payable.

St. 1911, c. 751, Pt. V, § 2, original enactment, read: " 'Employee' shall include every person in the service of another under any contract of hire, express or implied, oral or written, except one whose employment is but casual, or is not in the usual course of the trade, business, profession or occupation of his employer. Any reference to an employee who has been injured shall, when the employee is dead, also include his legal representatives, dependents and other persons to whom compensation may be paid."

St. 1913, c. 568, § 1, effective April 28, excepted "masters of and semen on vessels engaged in interstate or foreign commerce."

St. 1914, c. 708, § 13, struck out reference to "casual" employment.

St. 1935, c. 406, effective October ?&, added "but not excepting a person conclusively presumed to be an employee under section twenty-six of this chapter."

St. 1943, c. 529, § 3, effective November 15, changed exceptions to include "persons employed by an express company, sleeping car company or carrier subject to Part I or Part II of the Interstate Commerce Act, and persons employed by telephone companies subject to the federal communications act and excepting one whose employment is not in the usual course of the trade, business, profession or occupation of his employer", and the provisions of the chapter to remain elective "as to employers of the following: persons employing six or less, or persons employed as domestic servants and farm laborers, members of an employer's family dwelling in his household, and persons other than laborers, workmen and mechanics employed by religious, charitable or educational institutions."

St. 1945, c. 369, effective June 1, substituted a new section striking from exceptions "persons employed by an express company, sleeping car company or carrier subject to Part I or Part II of the Interstate Commerce Act", excepting only "masters of and seamen on vessels engaged in interstate or foreign commerce but only so far as the laws of the United States provide for compensation or for liability for their injury or death, and a person whose employment is not in the usual course of the trade, business, profession, or occupation of his employer."

St. 1947, c. 215, effective June 29, added to exceptions "persons employed to participate in organized professional athletics."

St. 1951, c. 109, § § 1, 2, effective June 3, added second paragraph on conclusive presumption of reserve or special police officers employed by and paid directly by a contractor for certain purposes and provides that this paragraph shall apply only in cases of personal injuries occurring on and after its effective date.

St. 1953, c. 139, effective June 3, included city or town within scope of section.

St. 1953, c. 656, § 1, effective October 1, paragraph rearranged with only change being to permit employers of farm laborers or domestic servants to elect as to insuring seasonal or casual laborers or domestic servants.

St. 1955, c. 366, effective August 15, removes right of election of "persons employed by telephone companies subject to the federal communications act," and makes them subject to the compulsory provisions of the Act.

St. 1955, c. 755, effective December 9, defined part-time domestic servant.

St. 1956, c. 680, effective November 8, 1956, third paragraph rearranged and coverage made compulsory as to employers of workers engaged in hazardous employment; also provided for procedure for determination of hazardous employments.

St. 1960, c. 306, effective April 12, extended compulsory provisions to all employers of farm laborers; irrespective of number of employees.

St. 1971, c 811, effective December 26, added "nurses" as not excluded under (4) (a)

St. 1972, Chap 374, effective September 3 eliminated elective provisions of Act, except as to employers of seasonal or casual or part-time domestic servants.

(5) "Employer", an individual, partnership, association, corporation or other legal entity, or any two or more of the foregoing engaged in a joint enterprise, and including the legal representatives of a deceased employer, or the receiver or trustee of an individual, partnership, association or corporation or other legal entity, employing employees subject to this chapter; provided, however, that the owner of a dwelling house having not more than three apartments and who resides therein, or the occupant of a dwelling house of another who employs persons to do maintenance, construction or repair work on such dwelling house or on the grounds or buildings appurtenant thereto shall not because of such employment be deemed to be an employer. The word "employer" shall include both the general employer and the special employer in any case where both relationships exist with respect to an employee.

St. 1911, c. 751, Pt. V, § 2, read: " 'Employer' shall include the legal representative of a deceased employer."
St. 1931, c. 426, perfecting statute, substituted "includes" for "shall include."
St. 1943, c. 529, § 1A, effective November 15, substituted present text.
St. 1954, c. 265, effective April 5, under emergency preamble, provided for the inclusion of two or more employers in a joint enterprise within the definition of a single "employer."
St. 1958, c. 429, effective September 26, added proviso relative to home owners.
St. 1969, c. 755 § 1, effective November 20, added last sentence.

(6) "Insured" or "insured person", an employer who has provided by insurance for the payment to his employees by an insurer of the compensation provided for by this chapter, or is a self-insurer under subsection 2 (a) or 2 (b) of section twenty-five A.

St. 1931, c. 426, § 251, effective September 7, added "by an insurer."
St. 1943, c. 2, effective November 15, added "or is a self-insurer under subsection 2(a) or 2(B) of section twenty-five A."

(7) "Insurer", any insurance company, reciprocal, or interinsurance exchange, authorized so to do, which has contracted with an employer to pay the compensation provided for by this chapter. The term "Insurer" within this definition shall include, wherever applicable, a self-insurer, the commonwealth and any county, city, town, or district which has accepted the provisions of section sixty-nine of this chapter.

Original text read: " 'Insurer', any insurance company which has insured the compensation payable by an employer under this chapter."
St. 1931, c. 426, § 252, effective September 7, changed text to read: " 'Insurer', any insurance company authorized so to do which has contracted with an employer to pay the compensation provided for by this chapter."

St. 1950, c. 277, § 2, effective July 2, added, in first sentence the words "reciprocal, or interinsurance exchange," and added the second sentence further defining the term.

(7A) "Personal injury" includes infectious or contagious diseases if the nature of the employment is such that the hazard of contracting such diseases by an employee is inherent in the employment.

St. 1941, c. 437, effective October 7, new subparagraph.

(7B) (Repealed St. 1950, c. 277, s. 1, effective July 2, Original enactment, St. 1947, c. 488, s. 9.)

(8) "Reviewing Board", the reviewing board designated under section seventeen of chapter twenty-three.

St. 1917, c. 297, § 1, original enactment.
St, 1953, c. 314, § 3, effective May 1, new secton, changed words "section three of chapter twenty-four" to "section seventeen of chapter twenty-three."

Section 2. The division shall make all necessary inspections and investigations relating to causes or injuries for which compensation may be claimed and for this purpose any board member or employee thereof may at any time enter places of employment when being used for business purposes. It shall also have the powers and duties set forth in this chapter.

St. 1913, c. 813, § 4, original enactment.
St. 1953, c. 314, § 4, effective May 1, the word "division" inserted in place of "department", and the word "board" inserted before the word "member."

Section 2A. Every act, in amendment of this chapter, in effect on the effective date of this section or thereafter becoming effective which increases the amount or amounts of compensation payable to an injured employee or his dependents shall, for the purposes of this chapter, be deemed to be substantive in character and shall apply only to personal injuries occurring on and after the effective date of such act, unless otherwise expressly provided. Every act, in amendment of this chapter, in effect on the effective date of this section or thereafter becoming effective which is not deemed to be substantive in character within the meaning of this section shall be deemed to be procedural or remedial only, in character, and shall have application to personal injuries irrespective of the date of their occurrence, unless otherwise expressly provided.

St. 1946, c. 386, § 3, effective August 29, new section.

Section 3. (Repealed St. 1921, c. 462, § 8, and duties transferred to State Board for Vocational Training.)

Section 4. The chairman of the division shall on or before April first make an annual report to the governor and general court covering the work of the division for the preceding calendar year.

St. 1914, c. 656, § 1, effective June 10, provided for number of copies to be printed.
St. 1918, c. 231, § 1, effective May 28, related to contents.
St. 1921, c. 462, § 7, effective May 27, provided "The department shall make an annual report."
St. 1939, c. 83, effective June 18, substituted new section as follows: "The department shall, as early as is consistent with full and accurate preparation, make an annual report covering the preceding calendar year."
St. 1953, c. 314, § 5, effective May 1, added provision that report be made to the governor and general court.
St. 1961, c. 611, § 7, effective June 2, substituted present text.

PROCEDURE

Section 5. The division may make rules consistent with this chapter for carrying outs its provision. Process and procedure shall be as simple and summary as reasonable may be. The division or any member thereof may subpoena witnesses, administer oaths, and examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute. Upon the written request of the division or of any member thereof, together with interrogatories and cross-interrogatories, if any there be, filed with the clerk of the superior court for any county, commissions to take depositions of persons or witnesses residing without the commonwealth, or in foreign countries, or letters rogatory to a court in another state or to a court in a foreign country, shall forthwith issue from the said superior court, as in cases pending therein; and upon the return of the said depositions or answers to letters rogatory the same shall be opened by the clerk of the court issuing the commissions or letters, and the said clerk shall endorse thereon the date when a deposition or answer to letters rogatory was received, and the same shall forth-

with be delivered to the division. No entry fee shall be charged in such cases.

The fee for attending as a witness before the division, or a member of the division, shall be three dollars a day, and five cents a mile for travel out and home; provided, that if the witness has a usual place of business or employment in the city or town where the hearing is held, travel shall be reckoned out and to such place of business or employment, and not out and home.

The superior court may enforce by proper proceedings the provisions of this section relating to the attendance and testimony of witnesses and the examination of books and records.

In lieu of the foregoing procedure relative to depositions, the division or any member thereof may upon the filing of a written request of any party, together with interrogatories and cross-interrogatories, if any there be, with the division or member, request officers in other jurisdictions, having powers and duties similar to those of the division or members, to take depositions or testimony of persons or witnesses residing in such jurisdictions. Upon the return of any such deposition to the division it shall be opened by the secretary of the division, who shall endorse thereon the date when it was received. The division may allow a reasonable fee for stenographic services in connection with the taking of such depositions and the expenses thereof shall be assessed upon the parties requesing such depositions.

In addition to the foregoing procedures relative to depositions, the division or any member thereof may order or upon the written request of any party, together with interrogatories and cross-interrogatories, if any, authorize the taking of depositions or testimony of medical witnesses residing within the commonwealth, and may make rules to facilitate the taking of such depositions. Said depositions shall be taken for use as medical evidence only, and shall be admissible in whole or in part in proceedings before the division or any member thereof. The expenses for stenographic services in connection with the taking of such depositions shall be paid by the party requesting that such witness be deposed; or whose witness is ordered to be deposed; provided, however, that if the decision of the single member, reviewing board, or the division is in favor of the employee, the cost of such stenographic expenses shall be added to the amount awarded to the employee and be paid by the insurer under the provisions of this chapter.

St. 1911, c. 751, Pt. III, § 3, original enactment.

St. 1912, c. 571, effective May 10, added provisions relating to fees, attendance and testimony of witnesses and examination of books and records.

St. 1915, c. 123, effective April 30, added fourth and fifth sentences providing for interrogatories and depositions.

St. 1915, c. 275, effective June 25, provided that procedure be as "simple and" summary as reasonably may be.

St. 1943, c. 359, effective August 26, added paragraph four.

St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

St. 1963, c. 407, effective August 13, 1963, amended by striking out the sixth sentence of para-1 "The fee for attending as a witness before the division shall be one dollar and fifty cents a day; for attending before a member of the division, fifty cents a day; in both cases, five cents a mile for travel out and home.", and substituted therefor the present text.

St. 1971, c. 882, effective January 12, 1972, added last paragraph relative depositions.

St. 1972, c. 233, effective August 2, amended last paragraph by inserting words - "order, or," and, "or whose witness is ordered to be deposed."

Section 6. If the insurer and the injured employee reach an agreement in regard to compensation, a memorandum thereof shall be filed with the division, and if approved by it, the memorandum shall for all purposes be enforceable under section eleven; provided, that as to the average weekly wages therein contained, the division or a member thereof may, on petition by the employee, insurer or insured, change such average weekly wages if the facts

found so warrant. Such agreements shall be approved by said division only when the terms conform to this chapter.

St. 1911, c. 751, Pt. III, § 4, original enactment.
St. 1912, c. 571, § 9, perfecting statute.
St. 1945, c. 347, effective August 23, permitted changing of "average weekly wages" in approved agreement by department or member thereof.
St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

Section 7. If the insurer and the injured employee fail to reach an agreement in regard to compensation, or if they have reached such an agreement, which has been signed and filed in accordance with this chapter, and compensation has been paid or is due in accordance therewith, and the parties thereto then disagree as to the continuance of any weekly payments, under such agreement, either party may notify the division, which shall thereupon assign the case for conference by a member thereof, to be held not later than twenty-eight days from the date such notice was received by the division. Such member shall make such inquiries and investigations as he deems necessary and shall have the power to require and receive reports of injury, signed statements of the employee and other witnesses, medical and hospital reports and records, and such other oral and written matter as shall enable him to determine whether compensation under this chapter is due. If the member determines, on such information, that compensation is due under this chapter, he shall forthwith file a written order for such compensation. If the member determines that compensation should be modified or terminated, he shall forthwith file a written order modifying or discontinuing compensation. Any party aggrieved by an order filed under this section may within ten days from the filing of such an order request the division to set the case for a hearing before another member thereof. Upon the filing of such request the chairman shall schedule a hearing to be held on a date not later than three months from the date the request was filed. Pending a decision rendered after such hearing, compensation shall be paid, modified or discontinued in accordance with the order filed under this section. Such an order shall for all purposes be enforceable under section eleven; provided however, that in the event of a request for a hearing such order shall be enforceable under said section eleven only until a decision has been rendered after such hearing. If, after such hearing, a decision is rendered that weekly payments made under the original order were not due, the state treasurer shall reimburse the insurer and the employee shall reimburse the state treasurer for the amounts paid the insurer. If, after such hearing, a decision is rendered ordering payment of compensation from the date on which a modification or discontinuance of payments had been ordered, the employee shall be paid the compensation found due. The decision rendered after a hearing shall be enforceable under said section eleven.

St. 1911, c. 751, Pt. III § 5, original enactment.
St. 1912, c. 571, § 10, perfecting statute.
St. 1914, c. 708, § 9, effective June 25, provided for hearing where disagreement as to continuance of compensation.
St. 1917, c. 297, § 2, effective June 23, provided for hearing "by a member" in place of "committee of arbitration."
St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."
St. 1971, c. 974, effective January 30, 1972, deleted words, "for hearing by a Member thereof," and inserted "for conference by a Member thereof," in first sentence, and added remaining language of Section which provided for written orders, etc.
St. 1972, c. 742 § 1, effective October 15, substituted present perfecting text.

Section 7A. In any claim for compensation where the employee has been killed, or found dead at his place of employment or is physically or mentally

unable to testify, it shall be prima facie evidence that the employee was performing his regular duties on the day of injury or fatality or death or disability and that the claim comes within the provision of this chapter, that sufficient notice of the injury has been given, and that the injury or death or disability was not occasioned by the wilful intention of the employee to injure or kill himself or another.

St. 1947, c. 380, effective August 7, new section

St. 1971, c. 702, effective November 25, substituted present text; Section 7A, prior to enactment of Chapter 702, Acts of 1971, read as follows: In any claim for compensation, where the employee has been killed or is physically or mentally unable to testify, it shall be presumed, in the absence of substantial evidence to the contrary, that the claim comes within the provisions of this chapter, that sufficient notice of the injury has been given, and that the injury or death was not occasioned by the wilful intention of the employee to injure or kill himself or another.

Section 7B. In any claim for compensation by an employee, which is denied by an insurer or self-insurer, no statement in writing signed by the claimant, or statement taken on a recording instrument, concerning the facts out of which the claim arose, given by such claimant, or a person in his behalf, to such insurer or self-insurer, or to an agent or attorney or such insurer or self-insurer, shall be admissible in evidence or referred to at the hearing of any such claim, or in any proceeding connected therewith, unless a copy of such statement or verbatim written transcript of such recorded statement has been furnished to the claimant, or to a person acting in his behalf, or to his attorney, within ten days after a written request therefor.

St. 1947, c. 455, effective August 22, new section.

St. 1968, c. 235, effective August 15, substituted present text which added words, "or statement taken on recording instrument"

Section 7C. Within sixty days after a request for hearing is filed with the division a conference between the parties shall be held before a member of the division for the purpose of defining and narrowing the issues, binding the parties to the matters which are not in dispute, and considering such other relevant matters as will aid in the disposal of the case. Following the converence the member shall file a memorandum with the division setting forth the issues, as defined and narrowed, together with a statement of the matters agreed upon. Such memorandum shall be a part of the case and shall control the conduct of the case, unless modified by a member at a subsequent hearing or conference in order to prevent manifest injustice. Offers of settlement shall not be referred to or made part of the memorandum.

St. 1966, c. 443, effective October 23, new section.

Section 7D. In any claim for compensation the medical report of a deceased physician who attended or examined the claimant, including expressions of medical opinion, shall, at the discretion of the member hearing the matter or the reviewing board, be admissible in evidence.

St. 1968, c. 21, effective May 26, 1968, new section.

Section 7E. The board, reviewing board, or single member, shall, if it finds that payment of compensation has been unreasonably delayed by an insurer or self-insurer, increase the award to a claimant by not less than five nor more than ten per cent of the compensation then found to be due.

St. 1968, c. 468, § 1, effective September 27, new section; § 2, provides section applicable to claims arising on and after effective date.

St. 1972, c. 188, effective July 19, added words, "reviewing board or single member"

Section 8. Such member shall make such inquiries and investigations as

shall be deemed necessary. The hearing shall be held in the town where the accident occurred or in such other place as the chairman may designate, and the decision of the member, together with a statement of the evidence, his findings of fact, rulings of law, and other matters pertinent to questions arising before him, shall be filed with the division within forty-five days of the close of the hearing, unless further extension is authorized by the chairman. The evidence at the hearing shall be taken, with or without the aid of electronic recording, and shall be transcribed verbatim but only on the request of the member; however, if a claim or review is filed and a party requests it, a verbatim transcript shall be forwarded to all parties without charge. The decision shall be enforceable under section eleven.

St. 1911, c. 751, Pt. III, § 7, effective July 1, 1912, original enactment read as follows: "Such member shall make such inquiries and investigations as shall be deemed necessary. The hearing shall be held in the place where the accident occurred and the decision of the member shall be filed with the department. Unless a claim for review is filed by either party within seven days, the decision shall be enforceable under section eleven."

St. 1912, c. 571, § 12, perfecting statute, substituted "town" for "place" and added phrase "together with a statement of the evidence, his findings of fact, rulings of law, and other matters pertinent to questions arising before him."

St. 1917, c. 297, § 4, effective June 23, added "or in such other place as in the department may designate."

St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

St. 1961, c. 611, substituted present text.

St. 1972, c. 742, § 2, effective October 15, deleted last sentence, and substituted present text of last sentence.

Section 8A. A party who has by accident, mistake or through reasonable cause, omitted to request a hearing from a written order filed under section seven within the time limited therein may, within thirty days from the filing of such order, petition the division for leave to request such hearing and the division may grant such petition and permit such hearing to be requested if it finds justice and equity require it, notwithstanding a decree has previously been rendered on such order as provided in section eleven.

A party who has by accident, mistake or through other reasonable cause, omitted to claim a review from a decision rendered under section eight within the time limited under section ten, may, within two years from the filing of such decision with the division, petition the superior court for the county in which the injury occurred, or for the county of Suffolk or the municipal court of the city of Boston, if the injury occurred in Suffolk county, for leave to claim such review, and the court may grant such petition and permit such claim to be filed if it finds that justice and equity require it, notwithstanding that a decree has previously been rendered on such decision as provided in section eleven.

St. 1930, c. 320, § 1, new section applicable to all claims arising since January 1, 1929.

St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department." St. 1957, c. 693, effective November 25, conferred concurrent jurisdiction on Boston Municipal Court.

St. 1972, c. 742, § 3, effective October 15, substituted new section.

St. 1973, c. 381, effective September 10, substituted present text which added provision for petition to division for leave to request hearing within thirty days from filing of order under section seven rather than to Superior Court within two years.

Section 9. The division or any member thereof, may appoint a duly qualified impartial physician to examine the injured employee and to report. The fee for this service shall be a reasonable amount set by the division, and the insurer shall reimburse the division for the amount so paid. The report of the physician shall be admissible as evidence in any proceeding before the division or a member thereof; provided that the employee and the insurer have

seasonably been furnished with copies thereof.

No person shall qualify or remain qualified as an impartial physician who has testified in hearings under this chapter more than three times in the preceding twelve months, for either insurers or claimants or both unless by agreement of both parties. A report by a physician appointed as an impartial physician under this section, who at the time of his examination of the injured employee shall have testified in hearings under this chapter more than three times in the preceding twelve months for either insurers or claimants or both, unless by agreement of both parties, shall be null and void and not admissible in evidence.

St. 1911, c. 751, Pt. III, § 8, original enactment.

St. 1914, c. 708, effective June 25, provided for reimbursement to the department by the insurer for payment of impartial physician.

St. 1916, c. 72, effective March 23, added sentence providing for admissibility of report and furnishing copies thereof to employee and insurer.

St. 1949, c. 442, effective September 14, substituted "a reasonable amount set by the department" for "five dollars and traveling expenses, but the department may allow additional reasonable amounts in extraordinary cases." It also added second paragraph.

St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

Section 9A. Whenever a medical question is in dispute in any case, and an impartial physician has not, prior to seven days before the date assigned for each hearing thereon, been appointed by the division or a member thereof, the employee may engage his own physician, and one additional physician if the single member or the division finds that justice and equity require the same to appear and testify or be deposed in his behalf, and, if the decision of the single member or of the division is in favor of the employee, a reasonable fee shall be allowed by the member or by the division for the services of each such physician and shall be added to the amount awarded to the employee and be paid by the insurer under the provisions of this chapter; provided, that, notwithstanding the foregoing, in every case wherein the decision of the single member or of the division is in favor of the employee, if more than one physician appeared and testified in behalf of the insurer a reasonable fee shall be allowed for the services of each of the physicians, up to a like number, who appeared and testified or were deposed in behalf of the employee, which fees shall be added to the amount so awarded and be paid by the insurer under the provisions of this chapter.

St. 1929, c. 242, effective July 16, original enactment, provided for allowance of a reasonable fee to employee's physician who appeared and testified in his behalf when medical question in dispute, an impartial physician had not been appointed by department prior to seven days before the date assigned for hearing thereon, and decision was in favor of employee.

St. 1930, c. 330, effective August 19, inserted "each" before "hearing."

St. 1938, c. 381, effective August 30, added "and one additional physician if the single member of the department finds that justice and equity require the same"; and proviso at end of present text.

St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

St. 1974, c. 247, effective August 21, added words "or be deposed", and "or were deposed"

Section 9B (Repealed St. 1947, c. 286, effective April 25.)

NOTE: Original enactment, relating to industrial disease referees, St. 1935, c. 424; amended, St. 1938, c. 462.

Section 10. If a claim for review is filed by either party within ten days from the filing of a decision rendered under section eight, the reviewing board shall hear the parties, and may hear evidence in regard to pertinent matters and may revise the decision in whole or in part, or may refer the matter back to the member for further finding of fact, and shall file its decision with the records of the proceedings and notify the parties. If a claim for a re-

view is filed in any case and the board by its decision orders the insurer to make, or to continue, payments to the injured employee or claimant, the cost to the injured employee of such review, including therein reasonable counsel fees, shall be determined by the board and shall be paid by the insurer. No costs shall be assessed where the insurer or self-insurer, in writing, filed with the board at the same time as it claims a review, with a copy mailed immediately to the employee or claimant and to his attorney, if any, makes an offer specifically stating in dollars and cents the amount it is ready forthwith to pay in past, present, and continuing compensation; and where the employee or claimant or his attorney refuses to accept said amount prior to the actual argument on review, and the reviewing board thereafter orders no more than said offer. No party shall as of right be entitled to a second hearing upon question of fact.

St. 1911, c. 751, Pt. III, § 10, original enactment.
St. 1912, c. 571, § 13, made perfecting changes.
St. 1917, c. 297, § 6, effective June 23, changing "committee" to "member."
St. 1930, c. 208, effective July 10, added provision for payment of costs by insurer where latter is ordered to make or continue payments to employee.
St. 1947, c. 546, effective June 20, added sentence beginning "No costs shall be assessed. . . ." Phrase "by the insurer" and word "so" struck out of second sentence.
St. 1972, c. 742, § 4, deleted first sentence and substituted present text which added words "by either party within ten days from the filing of a decision rendered"

Section 11. Any party in interest may present certified copies of an order or decision of the division, of a member or of the reviewing board or a memorandum of agreement approved by the division, and all papers in connection therewith, to the superior court for the county in which the injury occurred or for the county of Suffolk, or if the injury occurred in Suffolk county, to the municipal court of the city of Boston, but if so presented to the municipal court of the city of Boston, the court shall, on motion of any party in interest, order the case removed to the superior court for the county of Suffolk, and if so presented to the superior court for the county of Suffolk, the court may, on motion of any party in interest, order the case removed to the superior court for the county in which the injury occurred. The court shall thereupon render a decree in accordance therewith and notify the parties. Such decree shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though rendered in a suit duly heard and determined by said court, except that there shall be no appeal therefrom upon questions of fact or where the decree is based upon a decision of a member from which no claim of review has been filed within the time allowed therefor or a memorandum of agreement, and except that there shall be no appeal from a decree based upon an order or decision of the reviewing board which has not been presented to the court within ten days after the notice of the filing thereof by said board. Upon the presentation to it of a certified copy of a decision ending, diminishing or increasing a weekly payment under section twelve the court shall revoke or modify the decree to conform to such decisions.

In the event of certification or appeal to the superior court, or to the municipal court of the city of Boston, in accordance with this section, except in cases concerning employees of the commonwealth, the industrial accident board shall thereupon become a party to the proceedings and the attorney general shall, if requested by the industrial accident board, represent said board in any matter relating thereto. The chief justice of the superior court shall, in all counties arrange hearings on workmen's compensation cases so that they shall be heard more speedily than other matters coming before the court sitting without a jury; and in the county of Suffolk said chief justice

shall assign at least one day in each week, during which a justice shall devote his time first to hearings on workmen's compen tion cases, to the end that there may be a speedy disposition thereof. In t vent of certification or appeal to the municipal court of the city of Boston the chief justice thereof shall assign at least one day in each week, during which a justice shall devote his time first to hearings on workmen's compensation cases, to the end that there may be a speedy disposition thereof. In rendering a decree under this section or following a rescript of the supreme judicial court after an appeal from such a decree, the superior court or the municipal court of the city of Boston shall award costs to the prevailing party, to be taxed as in actions at law; but this provision shall not authorize the awarding of costs to or against the industrial accident board. In the event of a decree of the superior court or the municipal court of the city of Boston the court may, on motion of either party, by a brief statement of facts agreeable to the parties, report questions of law raised by the decree to the supreme judicial court for determination. If an employee appeals to the supreme judicial court from a decree of the superior court of the municipal court of the city of Boston, said court may, upon motion, certify that the appeal raises a substantial question of law, in which event the expense of printing the necessary records, papers and briefs shall be paid from the fund established by section sixty-five. Immediately after the entry of a decree, whether final or interlocutory, by the superior court or by the municipal court of the city of Boston under this section the clerk of said court shall prepare and forward to the division an attested copy of such decree. Upon the entry of an interlocutory decree under this section recommitting a case to the industrial accident board, counsel for the parties shall immediately notify said board by appropriate motion for action in accordance with the requirements of such decree.

St. 1911, c. 751, Pt, III, § 11, original enactment.
St. 1912, c. 571, § 14, made perfecting changes.
St. 1917, c. 297, § § 1, 7, effective June 23, changed "arbitration committee" to "member."
St. 1932, c, 129, § § 1, 2, effective September 1, struck out words "whereupon said court shall" and in place thereof added provision that upon motion of party in interest court for Suffolk County may order case removed to county where injury occurred.
St. 1935, c. 484, effective November 12, added second paragraph.
St. 1939, c. 213, § 1, effective September 1, added third paragraph.
St. 1949, c. 61, effective June 9, added fourth paragraph on reporting questions of law.
St. 1950, c. 634, effective July 14, added paragraph on expenses of printing records, papers and briefs.
St. 1953, c. 288, effective July 22, added last paragraph.
St. 1953, c. 314, § 6, inserted word "division" for word "department" wherever appearing in section.
St. 1956, c. 301, effective July 29, corrected in what is now fourth sentence the words "the following section" to read "section twelve."
St. 1957, c. 693, effective November 25, corrected section into one paragraph; conferred concurrent jurisdiction on the Municipal Court of the City of Boston.
St. 1972, c. 742, § 5, effective October 15, substituted paragraph one.

Section 11A. If the certification or appeal to the superior court or the municipal court of the city of Boston is by the insurer, and the claimant prevails, the superior court or the municipal court of the city of Boston, and, on further appeal, the single justice, or full bench, shall allow the claimant, in addition to the award in the decree, an amount sufficient to relieve the employee of the reasonable cost of attorney's fees, briefs and other necessary expenses that result from the certification or appeal. If any party in interest presents certified copies to the superior court or the municipal court of the city of Boston under the provisions of section eleven for the purpose of enforcing decisions of the board or a member made in his favor, the court shall likewise allow such party the fees, briefs expenses provided for by this section.

St. 1945, c. 444, effective September 18, new section.
St. 1949, c. 372, effective August 29, added last sentence.
St. 1957, c. 693, effective November 25, conferred concurrent jurisdiction on the Municipal Court of the City of Boston.

Section 12. Questions as to a weekly payment may be heard and decided by the reviewing board, or any member of the division, and the reviewing board or such member may, in accordance with the evidence and subject to this chapter, issue any order deemed advisable. If the case is heard and decided by a memer, his decision may be reviewed under sections eight and ten.

When in any case before the board it appears that compensation has been paid under an agreement of the parties or when in any such case there appears of record a finding that the employee is entitled to compensation, no subsequent finding by the board or by a member thereof discontinuing compensation on the ground that the employee's incapacity has ceased shall be considered final as a matter of fact or res adjudicata as a matter of law, and such employee or his dependents, in the event of his death, may have further hearings as to whether his incapacity or death is or was the result of the injuries for which he received compensation; provided, that if the board shall determine that the petition for such a rehearing is without merit and fivolous, the employee or his dependents shall not thereafter be entitled to file any subsequent petition therefor except for cause shown and in the discretion of the member to whom such subsequent petition may be referred, and that, in the event of the death of the employee, such a petition for a rehearing shall be filed within three months from the time of his decease and within one year from the date of the finding terminating his compensation.

St. 1911, c. 751, Pt. III, § 12, original enactment.
St. 1914, c. 708, § 11, new section, "Any weekly payment under this act may be reviewed by the industrial accident board, and upon such review the board may, in accordance with the evidence and subject to the provisions of this act, issue any order which it deems advisable."
St. 1917, c. 297, § 8, effective June 23, added provision for hearing by any member of department and for review of his decision under § § 8 and 10.
St. 1929, c. 246, effective April 22, added second paragraph with exception of phrase "it appears that compensation has been paid under an agreement of the parties or when in any such case" which was inserted by St. 1932, c. 117, § 1, effective March 28.
St. 1932, c. 117, § 2, added provision "This act shall apply to cases wherein compensation has been paid in pursuance of findings or agreements of the parties made subsequent to January 1, 1925," which was struck out by St. 1935, c. 351, effective September 11.
St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

Section 12A. In any hearing requested by an insurer aggrieved by an order filed under section seven or in any proceeding brought by an insurer as to the continuance of compensation being paid under this chapter, there shall be awarded an amount sufficient to compensate the employee for the reasonable costs of such hearing or proceeding, including reasonable counsel fees, provided the employee prevails at such hearing or proceedings.

St. 1959, c. 585, effective December 13, new section.
St. 1972, c. 742, § 6, effective October 15, substituted present text.

Section 13. Fees of attorney and physicians for services adjudged compensable under this chapter shall be subject to the approval of the division. The rate of payment by insurers to hospitals for care adjudged compensable under this chapter shall be established by the rate setting commission under chapter six A. If the insurer, or any physician or the employee or any attorney fail to agree as to the amount of any bill for such services, except rates to be paid for health care services, as defined in chapter six A, which shall be reviewable under chapter six A, either party may notify the division, which may there-

upon assign the case for hearing by a member thereof, in accordance with the provisions of section eight. No insurer shall be liable for hospitalization expenses, adjudged compensable under this chapter at a rate in excess of the rate set by the rate setting commission, or in excess of the rate established for that service by the aforesaid rate setting commission. Nor shall any employee be liable for services adjudged compensable under this chapter which have been paid for at the rates established by the rate setting commission; the employees, however, shall continue to be liable for services which are not adjudged compensable under this chapter.

St. 1911, c. 751, Pt. III, § 13, original enactment, consisted of one sentence.
St. 1914, c. 708, § 12, effective June 25, provided for hearing where insurer and any physician or hospital or employee and any attorney failed to agree on the amount to be paid for services.
St. 1917, c. 297, § 9, effective June 23, added second last sentence.
St. 1933, c. 68, effective June 11, added last sentence.
St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."
St. 1968, c. 492, § 18, effective September 12, substituted new section.
St. 1973, c. 1229, § 4M, effective July 1, 1974, substituted words "under Chapter 6A" in second sentence for words, "in accordance with Sections thirty K to thirty P inclusive of Chapter seven", and further substituted, "health, care services, as defined in chapter 6A" in third sentence for "general health services, supplies, care, services, and accommodations" and "chapter Six A" for "section thirty O of said Chapter Seven".
St. 1974, c. 746, substituted present section which allows single Member to file decisions as to proper fee for attorney or physician.

Section 14. If the reviewing board, any member of the division or any court before which proceedings under this chapter are brought determines that such proceedings have been brought, prosecuted or defended without reasonable ground, the whole cost of the proceedings shall be assessed upon the party who has so brought, prosecuted or defended them.

St. 1911, c. 751, Pt. III, § 14, original enactment.
St. 1917, c. 297, § 10, changed "committee of arbitration" to "member of the department."
St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

Section 15. Where the injury for which compensation is payable was caused under circumstances creating a legal liability in some person other than the insured to pay damages in respect thereof, the employee shall be entitled, without election to the compensation and other benefits provided under this chapter. Either the employee or insurer may proceed to enforce the liability of such person, but the insurer may not do so unless compensation has been claimed or paid under an agreement. The sum recovered shall be for the benefit of the insurer, unless such sum is greater than that paid by it to the employee, in which event the excess shall be retained by or paid to the employee. For the purposes of this section, "excess" shall mean the amount by which the total sum received in payment for the injury exclusive of interest and costs, exceeds the compensation paid under this chapter. The party bringing the action shall be entitled to retain any costs recovered by him. Any interest received in such action shall be apportioned between the insurer and the employee in porportion to the amounts received by them respectively, exclusive of interest and costs. The expense of any attorney's fees shall be divided between the insurer and the employee in proportion to the amounts received by them respectively under this section. Except in the case of a settlement by agreement by the parties to, and during a trial of, such an action at law, no settlement by agreement shall be made with such other person without the approval of the industrial accident board after an opportunity has been afforded both the insurer and the employee to be heard on the merits of the settlement and on the amount, if any, to which the insurer is entitled out of such settlement by way of reimbursement, which amount shall be determined

by said board at the time of such approval. In the case of a settlement by agreement by the parties to and during a trial of such an action at law, the justice presiding at the trial shall have and exercise, relative to the approval of such settlement by agreement and to the protection of the rights and interests of the employee, all the powers hereinbefore granted to the industrial accident board.

Nothing in this section, or in section eighteen or twenty-four shall be construed to bar an action at law for damages for personal injuries or wrongful death by an employee against any person other than the insured person employing such employee and liable for payment of the compensation provided by this chapter for the employee's personal injury or wrongful death and said insured person's employees.

St. 1911, c. 751, Pt. II, § 15, original enactment, provided that, where a third party was involved, employee could elect to take compensation or proceed against the thrid person but not against both. It created a new statutory right in insurer (not as subrogation) to proceed against the third party and retain the entire proceeds of recovery where employee elected to take compensation.

St. 1913, c. 448, effective April 7, provided, "In case the insurer recovers a sum greater than that paid by it to the employee, four-fifths of the excess shall be paid to the employee."

St. 1929, c. 326, § 1, effective August 14, prohibited insurer from making any settlement by agreement with third party without approval of the industrial accident board. It added provision that employee be held not to have exercised his option to proceed at law, if, at any time prior to trial of an action at law brought by him against such third person, he shall, after notice to the insurer, discontinue such action, provided, that, upon payment of compensation following such discontinuance, the insurer shall not have lost its right to enforce the liability of such other person.

St. 1939, c. 401, effective October 31, made the following revisions: Employee, who has claimed or received compensation within six months of injury may proceed against the third party when insurer has failed to do so within nine months after the injury, in either event the amount recovered to be for the benefit of the insurer, unless greater than the insurer paid employee; in which case four-fifths of the excess is to be paid by the insurer to the employee or retained by the employee. Except in the case of settlement by agreement by the parties to, and during the trial of, such action at law, no settlement or agreement shall be made without the approval of the board after an opportunity has been given the parties to be heard on the merits of the settlement and the amount, if any, to which insurer is entitled by way of reimbursement has been determined by the board. Where agreement for settlement with third party is reached during trial of action against third party a justice presiding shall have the same powers of approval as the industrial accident board and shall protect the rights and interests of the employee in such settlement.

St. 1943, c. 432, effective September 2, added definition of "excess", revised provision for its distribution, and inserted a new provision relating to the sharing of expense of attorney's fee, retention of costs and apportionment of interest.

St. 1965, c. 487, effective August 20, 1965, amended by striking out the words "six months" and inserting in place thereof the words "one year", and by striking out the word "nine" and inserting in place thereof the word "fifteen." Section 2 of c. 487 provided, "this act shall apply only to injuries occuring after its effective date.

St. 1971, c. 888, effective January 12, 1972, substituted present text except last sentence; applies to causes of action arising on or after effective date.

St. 1971, c. 941, effective January 24, 1972, added last sentence; applies to causes of action arising on or after effective date.

Section 15, prior to enactment of Chapter 888, Acts of 1971, read as follows:

Where the injury for which compensation is payable was caused under circumstances creating a legal liability in some person other than the insured to pay damages in respect thereof, the employee may at his option proceed either at law against that person to recover damages or against the insurer for compensation under this chapter, but, except as hereinafter provided, not against both. If compensation be paid under this chapter, the insurer may enforce, in the name of the employee or in its own name and for its own benefit, the liability of such other person, and if, in any case where the employee has claimed or received compensation within one year of the injury, the insurer does not proceed to enforce such liability within a period of fifteen months after said injury, the employee may so proceed. In either event the sum recovered shall be for the benefit of the insurer unless such sum is greater than that paid by it to the employee. If the insurer brings the action four-fifths of the excess shall be paid to the employee, and if the employee brings the action he shall retain the entire excess. The party bringing the action shall be entitled to retain any costs recovered by him and any interest received in such action shall be apportioned between the insurer and the employee in proportion to the amounts received by them respectively under this section, exclusive of interest and costs. For the purposes of this section, "excess" shall mean the amount by which the total sum received in payment for the iniury, exclusive of interest and

costs, exceeds the compensation paid under this chapter. The insurer and the employee may share the expense of any attorney's fee in accordance with such agreement as they may make, provided that when the insurer brings the action no such agreement shall be valid if the employee would be required thereunder to bear a greater proportion of such expenses than the proportion that the part of the excess received hereunder by him bears to the total sum received hereunder by him and the insurer, exclusive of interest and costs. Except in the case of a settlement by agreement by the parties to, and during a trial of, such an action at law, no settlement by agreement shall be made with such other person without the approval of the industrial accident board after an opportunity has been afforded both the insurer and the employee to be heard on the merits of the settlement and on the amount, if any, to which the insurer is entitled out of such settlement by way of reimbursement, which amount shall be determined by said board at the time of such approval. In the case of a settlement by agreement by the parties to, and during a trial of, such action at law the justice presiding at the trial shall have and exercise, relative to the approval of such settlement by agreement and to the protection of the rights and interests of the employee, all the powers hereinbefore granted to the industrial accident board. An employee shall not be held to have exercised his option under this section to proceed at law if, at any time prior to trial of an action at law brought by him against such other person, he shall after notice to the insurer discontinue such action, provided that upon payment of compensation following such discontinuance the insurer shall not have lost its right to enforce the liability of such other person as hereinbefore provided.

Section 15A. If one or more claims are filed for an injury and two or more insurers, any one of which may be held to be liable to pay compensation therefor, agree that the injured employee would be entitled to receive such compensation but for the existence of a controversy as to which of said insurers is liable to pay the same, such one of said insurers as they may mutually agree upon or as may be selected by a single member of the board shall pay to the injured employee the compensation aforesaid, pending a final decision of the board as to the matter in controversy, and such decision shall require that the amount of compensation so paid shall be deducted from the award if made against another insurer and be paid by said other insurer to the insurer agreed upon or selected by the single member as aforesaid. If, however, said insurers cannot agree that such employee would be entitled to compensation irrespective of the existence of such controversy, then a hearing to determine the question of liability and the payment of compensation shall be held forthwith by the division, such hearing to take precedence over other pending matters.

St. 1931, c. 143, effective June 24, new section.
St. 1934, c. 252, effective August 29, added last sentence.
St 1955, c. 174, § 5, effective June 13, the word "division" inserted in place of "department."

Section 16. Questions arising under this chapter, if not settled by agreement by the parties interested therein, shall, except as otherwise provided in this chapter, be determined by the division. The decisions of the division shall for all purposes be enforceable under section eleven.

St. 1911, c. 751, Pt. III, § 16, original enactment.
St. 1912, c. 571, § 15, effective May 10, added last sentence.
St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

Section 17 Orders or decisions of the reviewing board or division, decrees of the superior court upon such orders, decisions of a member of the division from which no claim for review has been filed within the time allowed therefor, or memoranda of agreements approved by the division shall have effect, notwithstanding an appeal, until it is otherwise ordered by a justice of the supreme judicial court, who may in any county suspend or modify such decree, order or decision, during the pendency of the appeal.

St. 1915, c. 132, original enactment.
St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

Section 18. If an insured person enters into a contract, written or oral, with an independent contractor to do such person's work, or if such a contrac-

tor enters into a contract with a sub-contractor to do all or any part of the work comprised in such contract with the insured, and the insurer would, if such work were executed by employees immediately employed by the insured, be liable to pay compensation under this chapter to those employees, the insurer shall pay to such employees any compensation which would be payable to them under this chapter if the independent or sub-contractors were insured persons. The insurer, however, shall be entitled to recover indemnity from any other person who would have been liable to such employees independently of this section; and if the insurer has paid compensation under this section, it may enforce, in the name of the employee or in its own name and for its benefit, the liability of such other person. The insurer shall also be entitled to recover from the uninsured independent contractor or the uninsured sub-contractor all compensation benefits and expenses, medical, hospital or otherwise, that it has paid or may become obligated to pay on account of any injury to the employee or employees of any such uninsured independent contractor or uninsured sub-contractor; provided, that this provision shall not authorize the insurer to recover from such a contractor or sub-contractor an amount which, together with any sum recovered under this chapter from any other person on account of the payment of compensation to such employee or employees, will exceed in the aggregate the amount of such compensation benefits and expenses. This section shall not apply to any contract of an independent or sub-contractor which is merely ancillary and incidental to, and is no part of or process in, the trade or business carried on by the insured, nor to any case where the injury occurred elsewhere than on, in or about the premises on which the contractor has undertaken to execute the work for the insured or which are under the control or management of the insured. The word "premises", as used in this section, shall include the public highways if the contract requires or necessitates the use of the public highways.

In any case where there shall exist with respect to an employee a general employer and a special employer relationship, as between the general employer and the special employer, the liability for the payment of compensation for the injury shall be borne by the general employer or its insurer, and the special employer or its insurer shall be liable for such payment if the parties have so agreed or if the general employer shall not be an insured or insured person under this chapter.

St. 1911, c. 751, Pt. III, § 17, original enactment.

St. 1938, c. 102, effective June 13, added last sentence.

St. 1939, c. 93, effective March 27, inserted third sentence providing for recovery by insurer from uninsured independent contractor or uninsured subcontractor of amount of compensation benefits and expenses.

St. 1969, c. 755, § 2, effective November 20, added last paragraph.

Section 19. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within fourty-eight hours, not counting Sundays and legal holidays, after the occurrence of an injury, a written report thereof shall be made to the division on blanks to be procured from it. Upon the termination of the disability of the injured employee, the employer shall make a supplementary report upon blanks to be procured from it. If the disability extends beyond a period of sixty days, the employer shall report to the division at the end of such period that the injured employee is still disabled, and upon the termination of the disability shall file a final supplemental report as provided above.

The said reports shall contain the name and nature of the business of the employer, the situation of the establishment, the name, age, sex and occupation of the injured employee, and shall state the date and hour of any acci-

dent causing the injury, the nature and cause of the injury, and other information required by the division.

If the division determines upon a report of facts by a member, after notice and hearing given to an employer, that such employer has without reasonable cause refused or neglected to make a report required by this section, it may thereupon order such employer to file any such report forthwith and may assess upon such employer the whole cost to the commonwealth of the proceedings entailed, as determined by the division. For the purposes of this paragraph the division shall be deemed a party in interest in proceedings under section eleven. Whoever, without reasonable cause, refuses or neglects to file or make any report required by this section shall be punished by a fine of not more than one hundred dollars.

Copies of reports of injuries filed by employers with the division and statistics and data compiled therefrom shall be kept available by it and shall be furnished on request to the department of labor and industries for its own use.

Within sixty days after the termination of the disability of the injured employee, the insurer shall file with the division a statement showing the total payments made or to be made for compensation and for medical services for such injured employee.

This section shall apply also to the head of each employing board, commission and department of the commonwealth and of the several counties, cities, towns and districts subject to section sixty-nine, and copies of the reports hereby required shall likewise be furnished by such employing head to the appropriate retirement board, if any, and to the agent referred to in section seventy-five or the insurer, if any.

St. 1911, c. 751, Pt. III § 18, original enactment, read: "Any employer who refuses or neglects to make the report required by this section shall be punished by a fine of not more than fifty dollars."

St. 1913, c. 746, § 1, effective July 1, added paragraphs four and five making reports of injuries available to the department of labor and industries and requiring the filing of a statement showing total payments made or to be made by insurer for compensation and medical services.

St. 1935, c. 339, effective September 11, providing an additional fine for subsequent offenses, read: "Employers refusing or neglecting to make any report required by this section, after notice to do so by the department, shall be punished for a first offense by a fine of not more than fifty dollars and for each subsequent offense by a fine of not more than one hundred dollars."

St. 1939, c. 245, effective August 23, substituted present text of paragraph three for wording of 1935 amendment.

St. 1941, c. 379, § 11, effective September 11, added the last paragraph.

St. 1953, c. 314, § 6, effective May 1, inserted the word "division" for "department".

St. 1955, c. 174, § 1, inserted present wording of fourth paragraph; § 2, inserted present wording of last paragraph.

St. 1973, c. 438, effective September 18, added last sentence third paragraph.

Section 19A. (Repealed, St. 1948, c. 158, effective June 17. Original enactment, St. 1935, c. 359.)

Section 19B. (Repealed, St. 1948, c. 157, effective June 17. Original enactment, St. 1941, c. 410.)

Section 20. Copies of hospital records kept in accordance with section seventy of chapter one hundred and eleven, certified by the persons in custody thereof to be true and complete, shall be admissible in evidence in proceedings before the division or any member thereof. The division or any member, before admitting any such copy in evidence, may require the party offering the same to produce the original record. All medical records and reports of hospitals, clinics and physicians of the insurer, employer, or of the employee shall be filed with and open to the inspection of the division so far as relevant to any matter before it. Such reports shall be open to the inspection of any party.

St. 1919, c. 198, original enactment, effective August 27.

St. 1927, c. 309, § 1, effective July 25, added provisions "All medical records and reports of hospitals, clinics and physicians of the insurer or of the employee shall be open to the inspection of the department so far as relevant to any matter before it."

St. 1935, c. 340 effective September 11, added as last sentence, "If such report is on file with the department it may be open to the inspection of any part."

St. 1945, c. 464, effective September 23, substituted "shall" for "may" in last sentence added in 1935.

St. 1946, c. 390, effective August 29, inserted words "filed with and" before word "open", in next to the last sentence, and substituted present text of last sentence.

St. 1949, c. 276, effective August 8, inserted word "employer" in next to last sentence.

St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department".

Section 20A. Any employer who maintains a clinic, dispensary or hospital for the treatment of injured employees and any insurer who maintains a clinic, dispensary or hospital for the treatment of injured employees of any insured shall, upon request of any injured employee attending such a clinic, dispensary or hospital, or of his attorney, furnish such employee or his attorney, at cost, with copies of reports of all medical examinations of the injured employee made while at such clinic, dispensary or hospital, showing the history obtained, the nature of the treatment given or prescribed, the diagnosis and the prognosis. No such medical report shall upon objection of the claimant be admissible in evidence in any proceeding under this chapter, unless a copy thereof has been furnished to the claimant, or a person acting in his behalf, or to his attorney, within twenty days after a written request therefor.

St. 1945, c. 468, effective September 23, new section.

St. 1954, c. 194, inserted new section, the only change being the addition of the last sentence.

Section 20B. In proceedings before the industrial accident board, the medical report of an incapacitated, disabled or deceased physician who attended or examined the plaintiff, including expressions of medical opinion, shall, at the discretion of the member, be admissible as evidence, but nothing therein contained which has reference to the question of liability shall be so admissible.

St. 1974, c. 598, effective October 23, 1974, new section.

Section 21. Every insured person shall, as soon as he secures a policy, give written or printed notice to all persons under contract of hire with him that he has provided for payment to injured employees by the insurer, or by self-insurance, as provided by this chapter.

St. 1911, c. 751, Pt. IV, § 20.

St. 1943, c. 529, § 4, effective November 15, added "or by self-insurance, as provided by this chapter."

Section 22. Every insured person shall give written or printed notice to every person with whom he is about to enter into a contract of hire that he has provided for payment to injured employees by the insurer or by means of self-insurance as provided in this chapter. An employer ceasing to be insured by an insurance company shall, on or before the day on which his policy expires, give written or printed notice thereof to all persons under contract with him. In case of the renewal of the policy no notice shall be required. He shall file a copy of said notice with the division. The notices required by this and the preceding section may be given in the manner therein provided or in such other manner as may be approved by the division.

St. 1911, c. 751, Pt. IV, § 21, original enactment.

St. 1912, c. 571, § 16, effective May 10, added last four sentences with exception of insertion made in 1943.

St. 1943, c. 529, § 13, effective November 15, added words "or by means of self-insurance as

provided in this chapter" at end of first sentence, and inserted in second sentence the words "by an insurance company."

St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

Section 23. If an employee files any claim for, or accepts payment of compensation on account of personal injury under this chapter, or makes any agreement, or submits to a hearing before a member of the division under section eight, such action shall constitute a release to the insured or self-insurer of all claims or demands at law, if any, arising from the injury.

St. 1911, c. 751, Pt. V, § 1, original enactment (with perfecting changes) read: "If an employee of an insured person files any claim with or accepts payment from the insurer on account of personal injury, or mades any agreement, or submits to a hearing before a member of the department under section eight, such action shall constitute a release to the insured of all claims or demands at law, if any, arising from the injury."

St. 1917, c. 571, § 16, effective May 10, added last four sentences with exception of insertion made in 1943.

St. 1943, c. 529, § 5, effective November 15, substituted present text.

St. 1953, c. 314, § effective May 1, the word "division" inserted in place of "department."

Section 24. An employee shall be held to have waived his right of action at common law or under the law of any other jurisdiction in respect to an injury therein occurring, to recover damages for personal injuries if he shall not have given his employer, at the time of his contract of hire, written notice that he claimed such right, or, if the contract of hire was made before the employer became an insured person or self-insurer, if the employee shall not have given the said notice within thirty days of the time said employer became an insured person or a self-insurer. An employee who has given notice to his employer that he claimed his right of action as aforesaid may waive such claim by a written notice, which shall take effect five days after it is delivered to the employer or his agent. The notices required by this section shall be given in such manner as the division may approve.

St. 1911, c. 751, Pt. I, § 5, original enactment.

St. 1912, c. 666, § 2, made perfecting changes.

St. 1927, c. 309, § 2, adding in first sentence "or under the law of any other jurisdiction in respect to an injury therein occurring," effective July 25, except as limited by St. 1927, c. 309, § § 13, 14, which reas as follows:

§ 13—"An employee under a contract of hire with an insured person, made prior to the effective date of so much of this act as is not affected by section fourteen, shall be deemed to have waived his rights of action to recover damages for personal injuries under the law of any other jurisdiction in respect to injuries therein occuring if he shall not give his employer, within thirty days after said effective date, written notice that he claims such rights."

§ 14—"So much of section three of this act extends the provisions of said chapter one hundred and fifty-two to injuries occurring outside the commonwealth shall take effect one hundred and twenty days after its passage." (Effective Aug. 24, 1927.)

St. 1943, c. 529, § 6, effective November 15, struck out words "of an insured person" after "employee" at beginning of first sentence, inserted words "self-insurer," and, at the end of the same sentence, replaced words "notice of such insurance" by "The time said employer became an insured person or a self-insurer."

St. 1955, c. 174, § 5, effective June 13, the word "division" inserted in place of "department."

Section 25. If an insured person who has complied with the rules, regulations and demands of the insurer is required by a judgment of a court to pay to an employee any damages on account of personal injury sustained by such employee during the period covered by insurance, the insurer shall pay to the insured the full amount of such judgment and the cost assessed therewith if the insured shall have given the insurer written notice of the bringing of the action in which the judgment was recovered and an opportunity to appear and defend the same.

St. 1911, c. 751, Pt. IV, § 22, original enactment.

COMPULSORY COMPENSATION AND SELF-INSURANCE*

Section 25A. In order to promote the health, safety and welfare of employees, every employer shall provide for the payment to his employees of the compensation provided for by this chapter in the following manner: —

(1) By insurance with an insurer, or

(2) Subject to the rules of the division, by obtaining from the division annually a license as a self-insurer by conforming to the provisions of one of the two following sub-paragraphs and also to the provisions of sub-paragraph (*c*) if required. Every employer desiring to be licensed as a self-insurer shall make application for such license on a form provided by the division. The application shall contain: (1) a sworn itemized statement of the assets and liabilities of the applicant; (2) a payroll report for the preceding fiscal year of the applicant; (3) a detailed description of the nature and kind of business carried on.

St. 1949, c. 441, § 1, effective September 14, added last two sentences on application.

(*a*) By keeping on deposit with the state treasurer in trust for the benefit and security of employees such amount of securities, not less in market value than twenty thousand dollars, as may be required by the division, said securities to be in the form of cash, bonds, stock or other evidences of indebtedness as the division may require, and to be used, liquidated and disbursed only upon order of the division for the purposes of paying the benefits provided for by this chapter. The division shall, at least semi-annually, determine the liabilities of a self-insurer both incurred or to be incurred because of personal injuries to employees under this chapter. The division shall require an additional deposit or further security when the sum of the self-insurer's liability both incurred or to be incurred exceeds the deposit or any required reinsurance, or permit a decrease of said deposit provided the value of said deposit in no case shall be less than twenty thousand dollars. The division may permit a substitution of securities in place of those deposited. Interest, dividends and other income from said deposit or deposits shall be payable to the employer who deposited them, unless and until the division shall direct otherwise. The deposit or deposits may be returned to the employer if the employer shall insure with an insurer under paragraph (1) of this section, or qualify as a self-insurer under sub-paragraph (*b*) of this section, or if he shall cease to transact business in the commonwealth; provided, that in any case he satisfies the division that he is not under any obligation to pay compensation under this chapter, or, if the division so requires, he furnishes the division with a single premium non-cancellable policy, insuring him against any liability that may have arisen under this chapter or with a bond executed as surety by some company authorized to transact the business of workmen's compensation insurance in this commonwealth, in an amount and form approved by the division, guaranteeing the payment of any liability on his part that may have arisen under this chapter. No deposit so deposited shall be assignable or subject to attachment or be liable in any way for the debt of the self-insurer. If an employer engaged in interstate or foreign commerce certifies that the laws of the United States provide for liability for injury to or death of its employees, the deposit shall be returned to the employer less such amount as determined by the division as necessary to satisfy against liability that may already have arisen under this chapter; and provided that such determination by the division shall be reviewable by the superior court for the county in which the employer resides, or, in the case of a corporation, where said corporation has a usual place of business.

*St. 1943, c. 529, § 7, effective November 15, inserted new caption.

St. 1943, c. 529, § 7, effective November 15, new section.

St. 1945, c. 316, effective August 19, transposed words "market value" and "value" in third sentence of (2) (a) and struck out words "approved by the department" near end of sixth sentence.

St. 1946, c. 472, § 1, effective September 4, added provision relating to surety bond at the end of the sixth sentence and restoring approval requirement.

St. 1949, c. 441, § 2, effective September 14, increased amount of securities on deposit with state treasurer from ten thousand dollars to twenty thousand dollars; changed period of determination of liabilities from "time to time" to "at least semi-annually"; in third sentence, on additional deposits or further security, substituted "shall" for "may at any time" and added clause "when the sum of the self-insurer's liability both incurred or to be incurred exceeds the deposit or any required reinsurance" after the words "further security"; struck out the words "in the value" after the word "decrease" as well as the word "market" after the words "provided the"; increased the minimum amount of deposit from ten thousand dollars to twenty thousand dollars.

St. 1969, c. 567, effective October 22, added last sentence, paragraph 2(a)

St. 1972, c. 764, effective October 15, deleted the word, "may" and substituted "shall".

(*b*) By furnishing annually a bond running to the commonwealth, with some surety company authorized to transact business in the commonwealth as surety, in such form as may be approved by the division and in such amount not less than twenty thousand dollars as may be required by the division, said bond, however, to be upon the condition that if the license of the principal shall be revoked or if the principal shall cease to transact business in the commonwealth or if the division shall refuse to renew the license or if the principal shall insure with an insurer, the principal shall upon demand deposit with the state treasurer an amount of securities equal to the penal sum of the bond or a single premium noncancellable policy issued by some insurance company authorized to transact the business of workmen's compensation insurance in this commonwealth, insuring him against any liability that may have arisen under this chapter or a bond executed as surety by some company authorized to transact the business aforesaid in this commonwealth, in an amount and form approved by the division, guaranteeing the payment of any liability on his part that may have arisen under this chapter. The division shall, at least semi-annually, determine the liabilities of a self-insurer both incurred or to be incurred because of personal injuries to employees under this chapter. The division may at any time require an additional bond, similarly conditioned, or further security or permit a decrease in the amount of said bond provided the amount of the bond or the bonds in no case shall be less than twenty thousand dollars. The liability of the surety shall not exceed in the aggregate the penal sum or sums stated in any such bond or bonds or in any endorsements giving effect to any such increase or reduction. The division may permit a substitution of a new bond or bonds for the bond or bonds which have been furnished.

This subject matter first enacted, St. 1943, c. 529, § 7, effective November 15.

St. 1945, c. 518, effective September 26, substituted present text (with exceptions noted below) for first sentence, which originally read:

"By furnishing annually to the state treasurer a bond with a corporate surety company authorized to do business in this commonwealth, in such form and in such an amount not less than ten thousand dollars as may be required by the department said bond, however, to be upon the condition that if the license of the principal shall be revoked or if the department shall refuse to renew the license, the principal shall upon demand fully comply with sub-paragraph (a) of this section relative to the deposit of securities or a single premium non-cancellable policy."

St. 1946, c. 472, § 2, effective September 4, revised first sentence by inserting words "of securities" and adding at end words beginning "or a bond executed . . ."

St. 1949, c. 441, § 3, effective September 14, increased minimum amount of any required surety bonds from ten thousand dollars to twenty thousand dollars; changed period of determination of liabilities from "time to time" to "at least semi-annually".

(*c*) As a further guarantee of a self-insurer's ability to pay the benefits provided for by this chapter to injured employees, every self-insurer shall make arrangements satisfactory to the division, by reinsurance, to protect it from

extraordinary losses or losses caused by one disaster.

Such reinsurance shall be in such amounts and from as the division may approve and shall be effected with a company as provided in section twenty of chapter one hundred and seventy-five, provided, the minimum amount shall be not less than five hundred thousand dollars. Such reinsurance shall provide that the use or disposition of any money received by a self-insurer or former self-insurer under any such reinsurance shall be subject to the approval of the division, and no such money shall be assignabe or subject to attachment or be liable in any way for the debt of the self-insurer unless incurred under this chapter. The provisions of this paragraph shall not apply to common carriers by railroad which are subject to the provision of the Federal Employers Liability Act.

St. 1943, c. 529, § 7, effective November 15, sub-paragraph newly inserted reading as follows: "As a further guarantee of a self-insurer's ability to pay the benefits provided for by this chapter to injured employees, the department may require that a self-insurer re-insure his compensation risk against catastrophe, and such reinsurance, when so required, shall be placed only with an insurance company admitted to do business in this commonwealth."

St. 1945, c. 344, effective August 23, words "authorized to transact the business of workmen's compensation insurance" substituted for "admitted to do business." Word "so" struck out.

St. 1948, c. 176, effective June 27, substituted the following section:

"As a further guarantee of a self-insurer's ability to pay the benefits provided for by this chapter to injured employees, the department may require that a self-insurer reinsure his compensation risk against catastrophe or excess losses, and such reinsurance, when required, shall be placed only with an insurance company authorized to transact the business of workmen's compensation insurance or reinsurance of workmen's compensation insurance in this commonwealth and shall be within the limits of coverage prescribed by the department. Such reinsurance, when required, shall provide that the liability of the reinsurer, covered by the reinsurance, for any payments due, or payable, upon the revocation of or refusal to renew the license of the self-insurer for which he is liable shall thereupon become fixed and absolute upon the reinsurer. Upon the filing of a decision by the department or a single member thereof, or a decree of the superior court, against such self-insurer in favor of any employee for any of the benefits provided for by this chapter if the self-insurer was at the time of injury reinsured against liability therefor, the department shall be entitled to prescribe the manner in which any reinsurance money due the self-insurer under the provision of his reinsurance shall be applied to the satisfaction of any such decision or decree."

St. 1949, c. 441, § 4, effective September 14, substituted present text except that minimum reinsurance should be not less than two hundred and fifty thousand dollars.

St. 1950, c. 351, effective July 16, increased minimum amount of reinsurance from two hundred and fifty thousand dollars to five hundred thousand dollars.

(3) The division may make rules governing self-insurers, and may revoke or refuse to renew the license of a self-insurer because of the failure of such self-insurer promptly to make payments of compensation provided for by this chapter, or for any other reasonable cause. Any person aggrieved by the action of the division in refusing to grant a license or in revoking, or refusing to renew a license of a self-insurer under this section or by the action of the division in requiring an additional deposit or further security under sub-paragraph (a) of this section, or in requiring a further bond or security for an additional sum under sub-paragraph (b) of this section may demand a hearing before the division, and if, after said hearing, the division denies his petition, he may within ten days after receipt of a notice stating reasons for such denial, file a petition in the superior court for Suffolk county for a review thereof; but the filing of such petition shall not suspend the action of the division unless a stay thereof shall be allowed by the justice pending a final determination by the court. The court shall summarily hear the petition and may make any appropriate order or decree.

St. 1943, c. 529, § 7, effective November 15, sub-paragraph new inserted.

(4) Such expenses as shall be determined by the department of administration and finance as necessary to carry out the provision of this chapter re-

lating to self-insurance shall be assessed against all self-insurers, including for this purpose employers who have ceased to exercise the privilege of self-insurance but whose securities are retained on deposit in accordance with the rules of the division. The basis of assemssment shall be the proportion of such expense that the total securities deposited by each self-insurer or penal sum or bond or bonds furnished by each self-insurer at the close of each fiscal year bears to the total deposits and bonds of all self-insurers. All such assessments when collected shall be paid into the state treasury.

St. 1943, c. 529, § 7, effective November 15, sub-paragraph newly inserted.
NOTE: St. 1955, c. 174, § 3, effective June 13, rewrote the entire section 25A, but only change was the insertion of "division" for "department".

Section 25B. Section twenty-five A shall not apply to the commonwealth or the various counties, cities, towns and districts provided for in sections sixty-nine to seventy-five, inclusive. Any employer may bring an employee or employees for whom he is not required by this chapter to provide for the payment of compensation within the coverage of this chapter by providing for the payment of compensation to such employee or employees as provided by this chapter.

St. 1943, c. 529, § 7, effective November 15, new section.

Section 25C. If an employer who is required to provide for the payment to his employees of the compensation provided for by this chapter fails to do so, he shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year, or both. Failure of an employer, after imposition of the foregoing penalty, to provide for the payment of compensation under this chapter after notice by the division to such employer so to do shall, as to each such notice, be deemed a further violation in respect thereof and the same penalty shall be imposed. If such employer is a corporation, the president or treasurer, or both, shall be liable for such penalty. The division or chairman shall have power to bring complaints against employers, including the president and treasurer of a corporation which is an employer, for violations of the provisions of this section, and to prosecute the same, and for such purpose may deputize one or more of its inspectors, investigators or other persons in its employ, as it may deem necessary to make and prosecute such complaints. Such complaints shall be brought in the district court in which the principal place of business of such employer is situated, or in the district court in whose district such president or treasurer of a corporation resides.

St. 1943, c. 529, § 7, effective November 15, new section.
St. 1951, c. 689, effective December 24, added last two sentences on enforcement provisions, but ST. 1953, c. 330, struck out next to last sentence and inserted new sentence which give chairman power also and permits deputization of more than one inspector etc., or other persons to act.
St. 1955, c. 174, § 5, inserted word "division" for "department" wherever latter appears.

Section 25D. No self-insurer or attorney acting in its behalf shall engage a service company or like organization to invesigate, adjust, or settle claims under this chapter or to represent it any matter before the division. Any violation of this section shall constitute reasonable cause for revocation of the license of a self-insurer under section twenty-five A of this chapter.

St. 1943, c. 529, § 7, effective November 15, new section.
St. 1955, c. 174, § 5, effective June 13, the word "division" inserted in place of "department".

Section 26. If an employee who has not give notice of his claim of common law rights of action under section twenty-four, or who has given such notice and has waived the same, receives a personal injury arising out of and in the

course of his employment, or arising out of an ordinary risk of the street while actually engaged, with his employer's authorization, in the business affairs or undertaking of his employer, and whether within or without the commonwealth, he shall be paid compensation by the insurer or self-insurer, as hereinafter provided; provided, that as to an injury occurring without the commonwealth he has not given notice of his claim of rights of action under the laws of the jurisdiction wherein such injury occurs or has given such notice and has waived it. For the purposes of this section any person, while operating or using a motor or other vehicle, whether or not belonging to his employer, with his employer's general authorization or approval, in the performance of work in connection with the business affairs or undertakings of his employer, and whether within or without the commonwealth, and any person who, while engaged in the usual course of his trade, business, profession or occupation, is ordered by an employer, or by a person exercising superintendence on behalf of such employer, to perform work which is not in the usual course of such work, trade, business, profession or occupation, and while so performing such work, receives a personal injury, shall be conclusively presumed to be an employee, and if an employee while acting in the course of his employment receives injury resulting from frost bite, heat exhaustion or sunstroke, without having voluntarily assumed increased peril not contemplated by his contract of employment, or is injured by reason of the physical activities of fellow employees in which he does not participate, whether or not such activities are associated with the employment, such injury shall be conclusively presumed to have arisen out of the employment.

If an employee is injured by reason of such physical activities of fellow employees and the division finds that such activities are traceable solely and directly to a physical or mental condition resulting from the service of any of such fellow employees in the armed forces of the United States, the entire amount of compensation that may be found due shall be paid by the state treasurer, upon order of the division, from the fund established by section sixty-five. Thnere shall be no appeal by the commonwealth from such an order of the division.

St. 1911, c. 751, Pt. II, § 1, original enactment.

St. 1927, c. 309, § § 3, 14, making ordinary risk of the street injuries compensable, effective July 25 except for injuries occurring outside the commonwealth for which act became effective August 24. Proviso re notice and waiver as to injuries outside the commonwealth was added to end of first sentence.

St. 1930, c. 205, effective July 10, added conclusive presumption of employment in injuries received while using a motor or other vehicle, with employer's authorization or approval, in the performance of work in connection with the business affairs or undertaking of the employer, whether within or without the commonwealth.

St. 1931, c. 170, effective July 5, included in conclusive presumption clause any person injured when ordered to do work not in the usual course of his insured employer's trade, business, profession or occupation.

St. 1937, c. 370, § 1, effective May 28, added injuries from frost bite, sun stroke and physical activities of fellow employees.

St. 1943, c. 302, effective August 17, added "heat exhaustion."

St. 1943, c. 529, § 8, effective November 15, made perfecting changes, substituting "employer" for "insured person" and "or self-insurer" for words "if his employer is an insured person at the time of the injury", and also inserting the word "work" before "trade".

St. 1945, c. 623, § 1, effective October 15, added the second paragraph.

St. 1955, c. 174, § 5, effective June 13, the word "division" inserted in place of "department".

St. 1973, c. 855, § 1, effective December 31, 1973, deleted "sixty-five N", and substituted "sixty-five".

Section 26A. Dependents shall not be precluded from recovery under this chapter, nor shall the insurance company be relieved from making payment to the commonwealth under section sixty-five, for death by suicide of the employee, if it be shown by the weight of the evidence that due to the injury, the

employee was of such unsoundness of mind as to make him irresponsible for his act of suicide.

St. 1937, c. 370, § 2, effective My 28, new section.

Section 26B. When an employee employed in the concurrent service of two or more insured employers receives a personal injury compensable under this chapter while performing a duty which is common to such employers, the liability of their insurers under this chapter shall be joint and several. Each insurer of self-insurer liable under this section shall pay compensation according to the proportion of the wages paid by its insured in relation to the concurrent wage which the employee received from all insured employers.

St. 1957, c. 276, effective July 8, new section.

Section 27. If the employee is injured by reason of his serious and wilful misconduct, he shall not receive compensation; but this provision shall not bar compensation to his dependents if the injury results in death.

St. 1911, c. 751, Pt II, § 2, original enactment.
St. 1935, c. 331, effective September 3, added "but this provision shall not bar compensation to his dependents if the injury results in death."

Section 28. If the employee is injured by reason of the serious and wilful misconduct of an employer or of any person regularly intrusted with and exercising the powers of superintendence, the amounts of compensation hereinafter provided shall be doubled. In case the employer is insured, he shall repay to the insurer the extra compensation paid to the employee. If a claim is made under this section, and the employer is insured, the employer may appear and defend against such claim only. The employment of any minor, known to be such, in violation of any provision of sections sixty to seventy-four, inclusive, or of section one hundred and four of chapter one hundred and and forty-nine shall constitute serious and wilful misconduct under this section.

St. 1911, c. 751, Pt. II § 3, original enactment.
St. 1912, c. 571, § 1, effective May 10, added provision relative to right to defend against such action only.
St. 1934, c. 292, § 2, effective September 10, inserted last sentence relating to employment of minors.
St. 1943, c. 529, § 9, effective November 15, substituted present text making changes in language only relative to status of an employer as "insured" or "self-insured."
NOTE: Provisions of G. L., c. 149, § § 60 to 74, inclusive, and § 104, will be found immediately after text of Workmen's Compensation Act.

Section 29. No compensation shall be paid for any injury which does not incapacitate the employee from earning full wages for a period of at least five days. If incapacity extends for a period of six days or more, compensation shall be paid from thedate of injury; provided that, except under section thirty-five, no compensation shall be paid for any period for which any wages were earned. When compensation shall have begun it shall not be discontinued except with the written assent of the employee. In other cases the insurer shall file a written application for approval of discontinuance of compensation with a recent medical report in support thereof or stating such other reason which may justify such discontinuance, and shall furnish a copy of such application and supporting medical report or statement of reason to the employee or his attorney, and such approval shall only be given by the division or a member thereof after a conference at which the employee may be present or represented by counsel. Failure of an employee to appear at such a conference after due notice thereof or report for examination by an impartial examiner if requested by a member or employee of the division, may be deemed sufficient cause for approval of the discontinuance of compensation; provided,

that such compensation shall be paid in accordance with section thirty-five if the employee in fact earns wages after the original agreement or decision is filed.

St. 1911, c. 751, Pt. II, § 4, original enactment, read: "No compensation shall be paid for any injury which does not incapacitate the employee for a period of at least fourteen days from earning full wages, but if incapacity extends beyond such period, compensation shall begin on the fifteenth day after the injury."

St. 1916, c. 90, effective January 1, 1917, reduced the waiting period to ten days, payments to begin on the eleventh day after the injury where incapacity extended beyond this period. It provided that compensation be not discontinued except with the written assent of the employee, or approval of the department or a member thereof; provided, however, that such compensation be paid in accordance with the partial incapacity provisions where the employee in fact earned wages at any time after the original agreement was filed.

St. 1923, c. 163, effective June 21, provided that, in order to be entitled to compensation, employee be incapacitated for at least seven (instead of ten) days, compensation to begin on the eighth day after the injury where incapacity extended beyond this period.

St. 1924, c. 207, effective July 5, provided for payment of compensation from the day of injury where incapacity extended beyond a period of four weeks.

St. 1927, c. 309, § 4, effective July 25, added provision that, except under section thirty-five, no compensation be paid for any period for which any wages are earned.

St. 1935, c. 372, effective September 24, added the provision that the approval of the department or a member thereof to discontinuance of compensation be granted only "after an impartial examination or after a personal interview with the employee by a member or employee of the department or after failure of the employee to report for or submit to such examination or interview after reasonable notice by the department." It inserted the words "or decision" in the last sentence.

St. 1937, c. 382, effective August 26, provided for the payment of compensation from the day of injury "if incapacity extends for a period of two weeks or more."

St. 1949, c. 471, effective September 26, substituted "eight days" for two weeks" and struck out the words "otherwise from the eighth day thereafter" after the words "day of injury" thus providing for the payment of compensation from the day of injury "if incapacity extends for a period of eight days or more."

St. 1951, c. 135, effectife 10, substituted present text of last three sentences on discontinuance procedure for wording of 1935 amendment.

St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

St. 1966, c. 442, effective October 23, deleted fourth sentence and substituted present text which provides medical report be furnished employee.

St. 1966, c. 578, effective November 27, deleted first two sentences, and substituted present text which reduced days from seven to five in first sentence, and period of days from eight to six in second sentence.

Section 30. The insurer shall furnish to an injured employee adequate and reasonable medical and hospital services, and medicines if needed, together with the expenses necessarily incidental to such services, and in the case of an injured employee, a physical examination shall be given at least once a year while the employee is a resident in a hospital. The employee may select a physician other than the one provided by the insurer; and in case he shall be treated by a physician of his own selection, or where in case of emergency or for other justifiable cause a physician other than the one provided by the insurer is called in to treat the injured employee, the reasonable cost of the physician's services shall be paid by the insurer, subject to the approval of the division. Such approval shall be granted only if the division finds that the employee was so treated by such physician or that there was such emergency or justifiable cause, and in all cases that the services were adequate and reasonable and the charges reasonable. In any case where the division is of opinion that the fitting of the employee with an artificial eye or limb, or other mechanical appliance, will promote his resotration to or continue him in industry, it may order that he be provided with such an artificial eye, limb or appliance, at the expense of the insurer. The provisions of this section shall be applicable so long as such services are necessary, notwithstanding the fact that maximum compensation under other sections of this chapter may have been received by the injured employee.

St. 1911, v. 751, Pt. II, § 5, original enactment, provided that insurer furnish reasonable medical and hospital services and medicines when needed during first two weeks after injury only.

St. 1914, c. 708, § 1, effective October 1, added provisions for furnishing of medical and hospital services by insurer in cases of delayed incapacity and in unusual cases in the discretion of the Board; for payment "where, in case of emergency or for other justifiable cause a physician other than the one provided by the insurer is called in to treat the injured employee"; and for approval "only if the Board finds there was such justifiable cause and that the charge for the service is reasonable."

St. 1917, c. 198, effective April 23, gave employee right to select physician other than one provided by insurer; and provided for approval "only if the Board finds that the employee was so treated by such physician or that there was such emergency or justifiable cause, and in all cases, that the services were adequate and reasonable and the charges reasonable."

St. 1920, c. 324, effective July 14, added provision permitting department to order insurer to fit employee, at its expense, with artificial limb, eye, or other mechanical appliance which will promote his "resotration to industry."

St. 1927, c. 309, effective July 25, provided for payment by insurer of medical bills beyond the first two weeks in cases "requiring specialized or surgical treatment" together with expenses necessarily incidental to such service.

St. 1936, c. 164, effective June 21, substituted new section, inserting, in the mechanical appliance clause, the words "or continue him in." Certain portions, including "if the employee is not immediately incapacitated thereby" and "or where, in case of emergency or for other justifiable cause a physician other than the one provided by the insurer is called in to treat the injured employee", were struck out so text read as follows:

"During the first two weeks after the injury, and, in unusual cases or cases requiring specialized or surgical treatment, in the discretion of the department, for a longer period, the insurer shall furnish adequate and reasonable medical and hospital services, and medicines if needed, together with the expenses necessarily incidental to such services. The employee may select a physician other than the one provided by the insurer; and in case he shall be treated by a physician of his own selection, the reasonable cost of the physician's services shall be paid by the insurer, subject to the approval of the department. Such approval shall be granted only if the department finds that such services were necessary and the charges therefor were reasonable. In any case where the department is of opinion that the fitting of the employee with an artificial eye or limb, or other mechanical appliance, will promote his restoration to or continue him in industry, it may order that he be provided with such an artificial eye, limb or appliance, at the expense of the insurer."

St. 1943, c. 181, effective July 14, restored the provision that the reasonable cost of physician's services be paid by insurer, subject to approval of department, "where in case of emergency or for other justifiable cause a physician other than the one provided by the insurer is called in to treat the injured employee", such approval to be granted only if department finds that "the employee was so treated by such physician or that there was such emergency or justifiable cause, and in all cases that the services were adequate and reasonable and the charges reasonable."

St. 1946, c. 233, struck out in first sentence time limitation on medical and hospital services for which insurer is liable in cases of injuries occurring on or after July 22,.

St. 1948, c. 159, effective June 17, added last sentence of present text.

St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

St. 1972, c. 403, effective September 6, substituted first sentence, adding requirement of physical examination once a year while employee in hospital.

Section 30A. The rehabilitation board established under section twenty-four of chapter twenty-three shall continuously study the problems of rehabilitation and shall examine such rehabilitation facilities, both private and public, and establish a list of such physicians as are available to render competent rehabilitation services for seriously injured industrial workers. Rehabilitation facilities shall include medical, surgical, hospital, prosthesis and physical restoration services. No facility shall be considered as qualified unless it is established to provide rehabilitation services for persons suffering from some specialized or general type of disablement within the field of industrial injury and unless such facility is operated under the supervision of physicians qualified to render rehabilitation services, is staffed with trained and qualified technicians and has received a certificate of qualification from said commission. No physician shall be considered as qualified unless he has had experience for a reasonable term of years in a qualified rehabilitation facility or is qualified for a special rehabilitation procedure because he holds a certification by an American Board of Specialty.

St. 1950, c. 767, § 2, effective November 14, new section.

St. 1952, c. 630, § 11, effective October 3, struck out the words, "ten of chapter twenty-four" and substituted "six A of chapter fifteen"; struck out the words "vocational, educational" after the word "prosthesis."

St. 1956, c. 602, effective November 4, struck out first sentence and inserted new sentence, making corrective statutory reference, and changing word "commission" to "board."

Section 30B. The rehabilitation board shall designate to act as impartial rehabilitation examiners physicians who are specially qualified and experienced in special means and methods of rehabilitation. The chairman of the industrial accident board shall appoint such physicians as are so designated by the rehabilitation board to serve as impartial rehabilitation examiners and to assist the division and the board in cases which may require rehabilitation services. A reasonable fee shall be allowed to the impartial rehabilitation examiner by the division and the insurer shall reimburse the division for the amount so paid.

The division and the rehabilitation board or any member thereof may refer to an impartial rehabilitation examiner any employee entitled to compensation under the provisions of this chapter for recommendation of the need and kind of rehabilitation treatment or services required by him. The report of the impartial rehabilitation examiner shall be admissible as evidence in any proceeding before the division or member thereof; provided, that the employee and the insurer have reasonably been furnished with copies thereof.

An insurer or self-insurer shall furnish rehabilitation services by a rehabilitation facility or a physician who, in the opinion of the board, is qualified to render rehabilitation services, and shall also furnish vocational services to any injured worker eligible for or receiving compensation under the provisions of the chapter who is determined to be fit and eligible for vocational rehabilitation by the Massachusetts rehabilitation commission, established by section seventy-four of chapter six; provided, that any dispute concerning liability or payments for such vocational rehabilitation by said insurer or self-insurer shall be decided by the industrial accident board after a hearing before a member thereof at which both the employee and the Massachusetts rehabilitation commission, whether or not it has paid for rehabilitation services, shall be parties and the attorney general shall, if requested by the Massachusetts rehabilitation commission, represent said commission in any matter relating thereto. The decision of the member shall be filed in accordance with section eight and unless a claim for review is filed within the period prescribed in section eight, the decision, including any order to the insurer or self-insurer to reimburse a party, shall be enforceable under section eleven. Fees for rehabilitation services shall be the reasonable and necessary cost of such services; expenses for the rehabilitation of the injured employee shall include travel, board and room when necessary, subject to the approval of the division, and shall be paid for by the insurer.

St.1950, c. 767, § 2, effective November 14, new section.

St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

St. 1956, c. 602, effective Nobember 4, changed "commission" to "board"; added provision for vocational rehabilitation services and method of determination of dispute concerning payments.

St. 1971, c. 773, effective December 15, deleted first sentence of paragraph three as inserted by c. 602, acts of 1956, and inserted first two sentences.

Section 30C. Nothing in sections thirty A or thirty B shall be construed as requiring any injured employee to accept rehabilitation services.

St. 1950, c. 767, § 2, effective November 14, new section.

Section 30D. Every insurer or self-insurer shall furnish to the industrial

accident rehabilitation board, established by section twenty-four of chapter twenty-three, the name and address of every person who has been receiving from such insurer or self-insurer compensation under the provisions of chapter one hundred and fifty-two for a period of six months. Such information shall be confidential and for the exclusive use of said board in the discharge of its duties, and shall not be open to the public, notwithstanding the provisions of section ten of chapter sixty-six or other provisions of law; provided, that nothing herein shall be construed to prevent the board from publishing such information in statistical form without disclosing the identity of the applicant involved. Whoever, except with the authority of the board or pursuant to its rules and regulations, or as otherwise required or authorized by law, shall disclose such information shall be punsished by a fine of not more than one hundred dollars or by imprisonment for not more than six months, or both.

St.1956, c. 602, effective November 4, new section.

Section 31. If death results from the injury, the insurer shall pay the following dependents of the employee, including his children by a former wife, wholly dependent upon his earnings for support at the time of his injury, or at the time of his death, compensation as follows, payable, except as hereinafter provided, in the manner set forth in section thirty-two:

To the widow or widower, so long as she or he remains unmarried, fifty-five dollars a week if and so long as there is no child of the employee, who is under the age of eighteen, or over said age and physically or mentally incapacitated from earning, or over said age and a full-time student qualified for exemption as a dependent under section one hundred and fifty-one (*e*) of the Internal Revenue Code; to or for the use of the widow or widower and for the benefit of all children of the employee, sixty-one dollars a week if and so long as there is one such child, and six dollars more a week for each additional child; provided, that in case any such child is a child by a former wife or husband, the death benefit shall be divided between the surviving wife or husband and all living children of the deceased employee in equal shares, the surviving wife or husband taking the same share as a child. If the widow or widower dies, such amount or amounts as would have been payable to or for her or his own use and for the benefit of all children of the employee shall be paid in equal shares to all the surviving children of the employee. If the widow or widower remarries, all payments under the foregoing provisions shall terminate and the insurer shall pay each week to each of such children of the employee fifteen dollars a week. If there is no surviving wife or husband of the deceased employee, such amount or amounts as would have been payable under this section to or for the use of a widow or widower and for the benefit of all such children of the employee, shall be paid in equal shares to all such surviving children of the employee, but no individual shall receive an amount in excess of forty-one dollars a week. The total amount of payments and the period of payments in all cases under this section shall not be more than sixteen thousand dollars nor continue for more than four hundred weeks, except that payment to or for the benefit of children of the deceased employee under the age of eighteen shall not be discontinued prior to the age of eighteen, and except that after a dependent unremarried widow or physically or mentally incapacitated child over the age of eighteen has received the maximum payments, he or she shall continue to receive further payments, but only during such periods as he or she is in fact not fully self-supporting. Either party may request hearings at reasonable intervals before a board member on the question of granting such payments, or on the question of restoration of such

payments, or on the question of discontinuance of such payments. A member of the board may set a case for hearing on his own initiative, after due notice to both parties.

In all other cases of total dependency, the insurer shall pay the dependents of the employee wholly dependent upon his earnings for support at the time of the injury, or at the time of his death, a weekly payment equal to two thirds of his average weekly wages, but not more than twenty dollars nor less than twelve dollars a week, for a period of five hundred weeks; but in no case shall the amount be more than eighty-five hundred dollars. If the employee leaves dependents only partially dependent upon his earnings for support at the time of his injury, or at the time of his death, the insurer shall pay such dependents a weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of his injury. In the event of the parties agreeing or the division finding that a partial dependent is the next of kin of the deceased employee and has, during the year preceding the injury, received from such deceased employee contributions for his support independent of gifts and gratuities, such partial dependent shall be paid by the insured a minimum weekly compensation of twelve dollars. When weekly payments have been made to an injured employee before his death, compensation under this paragraph to dependents shall begin from the date of the death of the employee, but shall not continue for more than five hundred weeks; but in no case of partial dependency shall the amount be more than eighty-five hundred dollars.

St. 1911, c. 751, Pt. II, § 6, original enactment read as follows: "If death results from the injury, the association shall pay the dependents of the employee, wholly dependent upon his earnings for support at the time of the injury, a weekly payment equal to one-half his average weekly wages, but not more than ten dollars nor less than four dollars a week, for a period of three hundred weeks from the date of the injury. If the employee leaves dependents only partly dependent upon his earnings for support at the time of his injury, the association shall pay such dependents a weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of his injury. When weekly payments have been made to an injured employee before his death, the compensation to dependents shall begin from the date of the last of such payments, but shall not continue more than three hundred weeks from the date of the injury."

St. 1914, c. 708, § 2, effective October 1, increased the sum payable from one-half to "Sixty-six and two thirds per cent of the average weekly wages, but not more than ten dollars nor less than four dollars a week, for a period of five hundred weeks from the date of the injury; but in no case shall the amount be more than four thousand dollars"; and in the last sentence of the section substituted "five hundred weeks" for "three hundred weeks."

St. 1922, c. 402, § 1, effective August 9, amended section to read as follows:

"If death results from the injury, the insurer shall pay the following dependents of the employee wholly dependent upon his earnings for support at the time of his injury compensation as follows:—to the widow, so long as she remains unmarried, sixteen dollars a week if and so long as there are more than two children of the employee who are under the age of eighteen, or over said age and physically or mentally incapacitated from earning, fourteen dollars a week if and so long as there are two such children, twelve dollars a week if and so long as there is one such child, and ten dollars a week, if and so long as there is no such child, and if the widow dies, to such children in equal shares, sixteen dollars a week if and so long as there are more than three such children, fourteen dollars a week if and so long as there are three such children, twelve dollars a week if and so long as these are two such children, and ten dollars a week if and so long as there is one such child; but if such widow remarries, the aforesaid payments to her shall terminate, and the insurer shall pay each week to each of such children, if and so long as there are more than five, his or her proportionate part of sixteen dollars, and shall pay to each of such children, if and so long as there are five or less, three lollars a week. The period covered by the payments provided for by the foregoing provisions of this section shall not be longer than four hundred weeks. When weekly payments have been made to an injured employee before his death, the compensation under the foregoing provisions of this section shall begin from the date of the last of such payments, but shall not continue more than four hundred weeks from the date of the injury.

"In all other cases of total dependency, the insurer shall pay the dependents of the employee

wholly dependent upon his earnings for support at the time of injury a weekly payment equal to two-thirds of his average weekly wages, but not more than ten dollars nor less than four dollars a week for a period of five hundred weeks from the date of the injury; but in no case shall the amount be more than four thousand dollars. If the employee leaves dependents only partially dependent upon his earnings for support at the time of injury, the insurer shall pay such dependents a weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of his injury. When weekly payments have been made to an injured employee before his death, the compensation under this paragraph to dependents shall begin from the date of the last of such payments, but shall not continue more than five hundred weeks from the date of the injury."

St. 1927, c. 309, § 6, making perfecting changes in Sy. 1922, c. 402, § 1, effective July 25, changed section to read:

"If death results from the injury, the insurer shall pay the following dependents of the employee wholly dependent upon his earnings for support at the time of his injury, compensation as follows:—to the widow, so long as she remains unmarried, ten dollars a week if and so long as there is no child of the employee, who is under the age of eighteen, or over said age and physically or mentally incapacitated from earnings; twelve dollars a week if and so long as there is one such child, and two dollars more a week for each such additional child; and if the widow dies, such amount as would have been payable had she lived shall be paid to the surviving children aforesaid in equal shares; but if such widow remarries, the aforesaid payments to her shall terminate and the insurer shall pay each week to each of such children, if and so long as there are more than five, his or her proportionate part of sixteen dollars, and shall pay to each of such children, if and so long as there are five or less, three dollars a week. The total amount of such payments shall not be more than sixty-four hundred dollars and said payments shall not continue more than four hundred weeks. When weekly payments have been made to an injured employee before his death, the compensation under the foregoing provisions of this section shall begin from the date of the last of such payments but shall not amount to a total of more than sixty-four hundred dollars, including such payments as were made to the injured employee before his death, and shall not continue for more than four hundred weeks from the date of the injury.

"In all other cases of total dependency, the insurer shall pay the dependents of the employee wholly dependent upon his earnings for support at the time of injury a weekly payment equal to two-thirds of his average weekly wages, but not more than ten dollars nor less than four dollars a week for a period of five hundred weeks from the date of the injury; but in no case shall the amount be more than four thousand dollars. If the employee leaves dependents only partially dependent upon his earnings for support at the time of his injury, the insurer shall pay such dependents a weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of his injury. When weekly payments have been made to an injured employee before his death, the compensation under this paragraph to dependents shall begin from the date of the last of such payments, but shall not continue for more than five hundred weeks from the date of the injury."

St. 1930, c. 293, effective August 7, substituted the following section:

"If death results from the injury, the insurer shall pay the following dependents of the employee, including his children by a former wife, wholly dependent upon his earnings for support at the time of his injury, compensation as follows, payable, except as hereinafter provided, in the manner set forth in section thirty-two:

"To the widow, so long as she remains unmarried, ten dollars a week if and so long as there is no child of the employee, who is under the age of eighteen, or over said age and physically or mentally incapacitated from earnings; to or for the use of the widow and for the benefit of all children of the employee, twelve dollars a week if and so long as there is one such child, and two dollars more a week for each such additional child; provided, that in case any such child is a child by a former wife, the death benefit shall be divided between the surviving wife and all living children of the deceased employee in equal shares, the surviving wife taking the same share as a child. If the widow dies, such amount or amounts as would have been payable to or for her own use and for the benefit of all children of the employee shall be paid in equal shares to all the surviving children of the employee. If the widow remarries, all payments under the foregoing provisions shall terminate and the insurer shall pay each week to each of the children of the employee, if and so long as there are more than five, his or her proportionate share of eighteen dollars and shall pay each of such children, if and so long as there are five or less, three dollars a week. The total amount of payments under this section shall not be more than sixty-four hundred dollars and said payments shall not continue more than four hundred weeks. When weekly payments have been made to an injured employee before his death, compensation under the foregoing provisions of this section shall begin from the date of the death of the employee, but shall not amount to a total of more than sixty-four hundred dollars, including such payments as were made to the injured employee before his death, and shall not continue for more than four hundred weeks, including weeks during which payments were made to the injured employee before his death.

"In all other cases of total dependency, the insurer shall pay the dependents of the employee

wholly dependent upon his earnings for support at the time of the injury a weekly payment equal to two thirds of his average weekly wages, but not more than ten dollars nor less than four dollars a week for a period of five hundred weeks; but in no case shall the amount be more than four thousand dollars. If the employee leaves dependents only partially dependent upon his earnings for support at the time of his injury, the insurer shall pay such dependents a weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of his injury. When weekly payments have been made to an injured employee before his death, the compensation under this paragraph to dependents shall begin from the date of the death of the employee, but shall not continue for more than five hundred weeks."

St. 1934, c. 250, effective August 29, inserted sentence, "If there is no surviving wife or husband of the deceased employee, such amount or amounts as would have been payable under this section to or for the use of a widow and for the benefit of all such children of the employee, shall be paid in equal shares to all such surviving children of the employee."

St. 1937, c. 325, effective August 18, inserted in paragraph one "except that payment to or for the benefit of children of the deceased employee under the age of eighteen shall not be discontinued prior to the age of eighteen", and added, at the end of the same paragraph, "except as above provided in cases where children of the deceased employee continue to be under the age of eighteen." (See text set out in next note.)

St. 1943, c. 368, effective August 26, in paragraph one increased the weekly compensation payable to total dependents, while St. 1943, c. 400, effective August 31, increased in the last paragraph the minimum and maximum amounts payable weekly in "all other cases of total dependency", added a provision in regard to payment of a minimum amount to a partial dependent who is next to kin of the deceased employee, and limited the total payment in partial dependency to four thousand dollars, so that the text read as follows:

"To the widow, so long as she remains unmarried, twelve dollars a week if and so long as there is no child of the employee, who is under the age of eighteen, or over said age and physically or mentally incapacitated from earning; to or for the use of the widow and for the benefit of all children of the employee, fifteen dollars a week if and so long as there is one such child, and three dollars more a week for each such additional child; provided, that in case any such child is a child by a former wife, the death benefit shall be divided between the surviving wife and all living children of the deceased employee in equal shares, the surviving wife taking the same share as a child. If the widow dies, such amount or amounts as would have been payable to or for her own use and for the benefit of all children of the employee shall be paid in equal shares to all the surviving children of the employee. If the widow remarries, all payments under the foregoing provisions shall terminate and the insurer shall pay each week to each of the children of the employee, if and so long as there are more than five, his or her proportionate share of twenty-four dollars and shall pay each of such children, if and so long as there are five or less, four dollars a week. If there is no surviving wife or husband of the deceased employee, such amount or amounts as would have been payable under this section to or for the use of a widow and for the benefit of all such children of the employee, shall be paid in equal shares to all such surviving children of the employee. The total amount of payments and the period of payments in all cases under this section shall not be more than sixty-four hundred dollars nor continue for more than four hundred weeks, except that payment to or for the benefit of children of the deceased employee under the age of eighteen shall not be discontinued prior to the age of eighteen. When weekly payments have been made to an injured employee before his death, compensation under the foregoing provisions of this section shall begin from the date of the death of the employee, but shall not amount to a total of more than sixty-four hundred dollars, including such payments as were made to the injured employee before his death, and shall not continue for more than four hundred weeks; including weeks during which payments were made to the injured employee before his death, except as above provided in cases where children of the deceased employee continue to be under the age of eighteen.

"In all other cases of total dependency, the insurer shall pay the dependents of the employee wholly dependent upon his earnings for support at the time of the injury a weekly payment equal to two thirds of his average weekly wages, but not more than twelve dollars nor less than five dollars a week, for a period of five hundred weeks; but in no case shall the amount be more than four thousand dollars. If the employee leaves dependents only partially dependent upon his earnings for support at the time of his injury the insurer shall pay such dependents a weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of his injury. In the event of the parties agreeing or the department finding that a partial dependent is the next of kin of the deceased employee and has, during the year preceding the injury, received from such deceased employee contributions for his support independent of gifts and gratuities, such partial dependent shall be paid by the insurer a minimum weekly compensation of five dollars. When weekly payments have been made to an injured employee before his death, compensation under this paragraph to dependents shall begin from the date of the death of the employee, but shall not continue for more than five hundred weeks; but in no case of partial dependency shall the amount be more than four thousand dollars."

St. 1945, c. 572, effective October 7, added the clause limiting weekly payment to fifteen dollars

in case of an individual child without a surviving parent, and the words "or widower" and "or husband", and, in paragraph one, increased weekly dependency payments for widow from twelve to fifteen dollars and for children from three to five dollars and increased total payments from sixty-four hundred dollars to seventy-six hundred dollars.

St. 1948, c. 666, effective September 16, struck out what had been the last sentence of this paragraph providing for payment of compensation from the date of death where weekly payments had been made to employee prior to his death, and adding exceptions to limitation on benefits in the case of a dependent unremarried widow or physically or mentally incapacitated child over the age of eighteen, and the provisions for hearings on the question of the granting, restoration or discontinuance of such dependency payments; it also transposed the words "the" and "such" in the third sentence of paragraph one, so that the text read as follows:

"To the widow or widower, so long as she or he remains unmarried, fifteen dollars a week if and so long as there is no child of the employee, who is under the age of eighteen, or over said age and physically or mentally incapacitated from earning; to or for the use of the widow or widower and for the benefit of all children of the employee, twenty dollars a week if and so long as there is one such child, and five dollars more a week for each such additional child; provided, that in case any such child is a child by a former wife or husband, the death benefit shall be divided between the surviving wife or husband and all living children of the deceased employee in equal shares, the surviving wife or husband taking the same share as a child. If the widow or widower dies, such amount or amounts as would have been payable to or for her or his own use and for the benefit of all children of the employee shall be paid in equal shares to all the surviving children of the employee. If the widow or widower remarries, all payments under the foregoing provisions shall terminate and the insurer shall pay each week to each of such children of the employee, if and so long as there are more than five, his or her proportionate share of twenty-five dollars and shall pay each of the children, if and so long as there are five or less, four dollars a week. If there is no surviving wife or husband of the deceased employee, such amount or amounts as would have been payable under this section to or for the use of a widow or widower and for the benefit of all such children of the employee, shall be paid in equal shares to all such surviving children of the employee but no individual shall receive an amount in excess of fifteen dollars a week. The total amount of payments and the period of payments in all cases under this section shall not be more than seventy-six hundred dollars nor continue for more than four hundred weeks, except that payment to or for the benefit of children of the deceased employee under the age of eighteen shall not be discontinued prior to the age of eighteen, and except that after a dependent unremarried widow or physically or mentally incapacitated child over the age of eighteen has received his maximum payments, he or she shall continue to receive further payments, but only during such periods as he or she is in fact not fully self-supporting. Either party may request hearings at reasonable intervals before a board member on the question of granting such payments, or on the question of restoration of such payments, or on the question of the discontinuance of such payments. A member of the board may set a case for hearing on his own initiative, after due notice to both parties.

In all other cases of total dependency, the insurer shall pay the dependents of the employee wholly dependent upon his earnings for support at the time of the injury a weekly payment equal to two thirds of his average weekly wages, but not more than twelve dollars nor less than five dollars a week, for a period of five hundred weeks; but in no case shall the amount be more than four thousand dollars. If the employee leaves dependents only partially dependent upon his earnings for support at the time of his injury the insurer shall pay such dependents a weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of his injury. In the event of the parties agreeing or the department finding that a partial dependent is the next of kin of the deceased employee and has, during the year preceding the injury, received from such deceased employee contributions for his support independent of gifts and gratuities, such partial dependent shall be paid by the insurer a minimum weekly compensation of five dollars. When weekly payments have been made to an injured employee before his death, compensation under this paragraph to dependents shall begin from the date of the death of the employee, but shall not continue for more than five hundred weeks; but in no case of partial dependency shall the amount be more than four thousand dollars."

St. 1950, c. 357, (together with c. 738, § 2, below) substituted present text of paragraph one; increasing the weekly compensation payable to widows to twenty dollars; increasing the weekly payments to seven dollars to each child if widow or widower remarries; increased to twenty-five dollars the maximum amount to be received by an individual child without a surviving parent; increased the total amount payable, subject to certain exceptions, to ten thousand dollars; substituted in maximum payment sentence the word "the" for "his" before "maximum payments".

St. 1950, c. 738, § 2, effective November 6, in the first paragraph inserted after "at the time of his injury" the words, "or at the time of his death." Section 3 added same words in first and second sentences of last paragraph.

St. 1951, c. 98, effective May 31, in last paragraph increased maximum weekly compensation to fifteen dollars, minimum to eight dollars and total amount to six thousand dollars.

St. 1955, c. 174, § 5, effective June 13, the word "division" inserted in place of "department."

St. 1956. c. 588, effective October 31, weekly compensation payable to widow or widower to

twenty-five dollars; increased to thirty dollars the maximum amount to be received by an inidividual child without a surviving parent.

St. 1959, c. 530, effective November 24, weekly compensation payable to widow or widower to thirty dollars; increased the weekly payments to ten dollars to each child if widow or widower remarries; increased to thirty-five dollars the maximum amount to be received by an individual child without a surviving parent; increased the total amount payable, subject to certain exceptions, to fourteen thousand dollars.

St. 1961, c. 503, effective August 21, in last paragraph increased maximum weekly compensation to twenty dollars, minimum to twelve dollars and total amount to eighty-five hundred dollars.

St. 1961, c. 541, effective August 24, increased weekly compensation payable to widow or widower to thirty-five dollars; to each dependent child from five to six dollars; increased the weekly payments to twelve dollars to each child if widow or widower remarries; increased to forty-one dollars the maximum amount to be received by an individual child without a surviving parent; increased the total amount payable, with certain exceptions, to sixteen thousand dollars.

St. 1964, c. 446, effective August 27, 1964, increased weekly compensation payable to widow or widower to forty dollars; increased the weekly payments to fifteen dollars to each child if widow or widower remarries.

St. 1970, c. 860, effective November 29, increased weekly compensation payable to widow or widower to forty-five dollars; increased weekly compensation payable to widow or widower with one child to fifty-one dollars.

St. 1974, c. 483 § 3 effective November 1, applicable to injuries occurring after said date, increased weekly compensation to widow or widower to fifty-five dollars; increased weekly compensation payable to widow or widower with one child to sixty-one dollars; added provision for full time student over eighteen years of age.

Section 32. The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employee:

St. 1911, c. 751, Pt. II, § 7, original enactment.

(a) A wife upon a husband with whom she lives at the time of his death, or from whom, at the time of his death, the department shall find the wife was living apart for justifiable cause or because he had deserted her. The findings of the department upon the questions of such justifiable cause and desertion shall be final.

St. 1914, c. 708, § 3, effective June 25, added provision re wife living apart for justifiable cause or because employee had deserted her.

(b) A husband upon a wife with whom he lives at the time of her death.

(c) Children under the age of eighteen years (or over said age, if physically or mentally incapacitated from earning) upon the parent with whom they are living at the time of the death of such parent, there being no surviving dependent parent; provided that in case of the death of an employee who has at the time of his death living children by a former wife or husband, under the age of eighteen years (or over said age, if physically or mentally incapacitated from earnings), said children shall be conclusively presumed to be wholly dependent for support upon such deceased employee, and the death benefit shall be divided between the surviving wife or husband and all the children of the deceased employee in equal shares, the surviving wife or husband taking the same share as a child. The total sum due the surviving wife or husband and her or his own children shall be paid directly to the wife or husband for her or his own use and for the benefit of her or his own children, and the sums due to the children by the former wife or husband of the deceased employee shall be paid to their guardians or legal representatives for the benefit of such children. Children, within the meaning of this paragraph, shall also include any children of the deceased employee conceived but not born at the time of the employee's injury, and the compensation provided for by this chapter on account of any such children shall be payable from the date of their birth.

St. 1914, c. 708, § 3, effective June 25, added text appearing after the phrase "there being no surviving dependent parent."

St. 1950, c. 282, § 2, effective July 2, added last sentence on children conceived but not born at time of employee's injury.

(d) Children under the age of eighteen years (or over said age but physically or mentally incapacitated from earning) upon a parent who was at the time of his death legally bound or ordered by law, decree or order of court or other lawful requirement to support such children although living apart from such child or children. Children, within the meaning of this paragraph, shall also include any children of the deceased employee conceived but not born at the time of the employee's injury, and the compensation provided for by this chapter on account of any such children shall be payable from the date of their birth.

St. 1919, c. 204, effective August 27, inserted as new sub-paragraph. "A child or children under the age of sixteen (or over the said age but physically or mentally incapacitated from earning) upon a parent who was at the time of his death legally bound to support, although living apart from such child or children."

St. 1947, c. 450, effective August 22, added "or ordered by law, decree or order of court or other lawful requirement to support such children."

St. 1949, c. 281, effective August 8, increased the age of child from sixteen to eighteen.

St. 1950, c. 282, § 3, effective July 2, added last sentence on children conceived but not born at time of employee's injury.

(e) A parent upon an unmarried child under the age of eighteen years; provided, that such child was living with the parent at the time of the injury resulting in death.

St. 1926, c. 190, effective July 1, new sub-paragraph.

If a parent determined to be dependent for support in whole or in part on a child shall die leaving the other parent surviving, the surviving parent shall succeed to the rights to compensation of the deceased parent, if such child was living with such surviving parent at the time of the injury resulting in the death of such child.

St. 1935, c. 361, effective September 18, new paragraph.

In all other cases questions of dependency, in whole or in part, shall be determined in accordance with the fact as the fact may be at the time of the injury, or at the time of his death; and in such other cases, if there is more than one person wholly dependent the death benefit shall be divided equally amount them, and persons partly dependent, if any, shall receive no part thereof, and if there is no one wholly dependent and more than one person partly dependent, the death benefit shall be divided among them according to the relative extent of their dependency.

St. 1950, c. 738, § 4, effective November 6, added words "or at the time of his death" after the words "time of injury."

Section 33. In all cases the insurer shall pay the reasonable expenses of burial not exceeding one thousand dollars.

St. 1911, c. 751, Pt. II, § 8, effective July 1, original section read: "If the employee leaves no dependents, the association shall pay the reasonable expenses of his last sickness and burial which shall not exceed two hundred dollars."

St. 1917, c. 269, effective June 20, reduced amount to one hundred dollars and added second sentence reading: "If the employee leaves dependents such sum shall be part of the compensation payable, and shall go to that extent diminish the period of payment."

St. 1922, c. 368, effective August 1, increased amount to one hundred and fifty dollars.

St. 1939, c. 81, effective June 18, substituted present wording (except for amount which was increased by later statutes), eliminating entirely second sentence inserted by St. 1917, c. 269.

St. 1941, c. 495, effective October 20, increased amount to two hundred and fifty dollars.

St. 1948, c. 155, effective June 15, increased amount to three hundred dollars.

St. 1949, c. 258, effective August 3, added clause on payment of five hundred dollars if no dependents.

St. 1957, c. 270, effective July 7, increased amount to five hundred dollars or, if no dependents, to one thousand dollars.

St. 1960, c. 287, effective July 3, inserted present provision.

Section 34. While the incapacity for work resulting from the injury is total, the insurer shall pay the injured employee a weekly compensation equal to two thirds of his average weekly wages, but not more than nine-five dollars nor less than twenty dollars a week, unless the weekly wages of the injured employee are less than twenty dollars, in which case said weekly compensation shall be equal to his average weekly wages, but not less than ten dollars where the number of normal working hours of the injured employee in a week are fifteen or more; provided, that the amount does not exceed twenty-three thousand seven hundred and fifty dollars, except that if the injured employee has received compensation for the same injury under section thirty-five the combined amount of compensation payable under this section and section thirty-five shall not exceed the maximum amount as set forth in section thirty-five.

St. 1911, c. 751, Pt. II, § 9, original enactment read:

"While the incapacity for work resulting from the injury is total, the association shall pay the injured employee a weekly compensation equal to one-half his average weekly waged, but not more than ten dollars nor less than four dollars a week; and in no case shall the period covered by such compensation be greater than five hundred weeks, nor the amount more than three thousand dollars."

St. 1914, c. 708, § 4, effective October 1, changed the weekly compensation from one-half to two thirds of the employee's average weekly wages and increased the total amount payable to four thousand dollars.

St. 1917, c. 249, § 1, effective May 14, increased the maximum weekly compensation to fourteen dollars.

St. 1918, c. 113, effective April 26, increased the minimum weekly compensation to five dollars.

St. 1919, c. 197, effective August 27, increased the maximum weekly compensation to sixteen dollars and the minimum weekly compensation to seven dollars.

St. 1927, c. 309, § 7, effective July 25, increased the maximum weekly compensation to eighteen dollars and the minimum to nine dollars, "except that the weekly compensation of the injured employee shall be equal to his average weekly wages in case such wages are less than nine dollars", and the period covered by such compensation shall not be greater than five hundred weeks nor the amount more than forty-five hundred dollars.

St. 1935, c. 332, § 2, effective September 3, inserted the phrase "but in no case less than seven dollars a week where the number of normal working hours of the injured employee in a week are fifteen or more."

St. 1941, c. 624, effective November 2, increased the maximum weekly compensation to twenty dollars and the minimum to eleven dollars, with the exception that the payment be equal to the average weekly wage where the latter was less than eleven dollars.

St. 1945, c. 717, effective October 23, substituted a new section increasing the maximum weekly payment to twenty-two dollars, the minimum weekly payment to fifteen dollars, and the total amount payable to seventy-five hundred dollars. It struck out the phrase, "but in no case less than seven dollars a week where the number of working hours of the injured employee in a week are fifteen or more," and the limitation on the number of weeks for which compensation is payable.

St. 1946, c. 321, § § 1, 4, effective August 15, substituted a new section increasing the maximum weekly payment to twenty-five dollars, the minimum weekly payment to eighteen dollars, and the total amount payable to ten thousand dollars.

St. 1947, c. 665, effective September 28, restored the provision for minimum rate where the number of normal working hours in a week are fifteen or more.

St. 1949, c. 520, § 1, effective October 6, increased the maximum weekly compensation to thirty dollars.

St. 1955, c. 777, § 1, effective December 13, increased maximum weekly compensation to thirty-five dollars, and the minimum weekly payment to twenty dollars subject to qualifications specified in the section.

NOTE: Between October 23, 1945, and September 28, 1947, this section contained no provision as to the weekly minimum payable in cases where the normal working hours in a week were fifteen or more.

St. 1956, c. 735, effective January 3, 1957, inserted; after employee has received weekly compensation for thirteen weeks, maximum thereafter shall be not more than forty dollars per week.

St. 1958, c. 665, § 1, effective January 15, 1959, increased maximum weekly payment to forty dollars from first week of incapacity; added provision that maximum amount payable under this section in combination with section thirty-five be increased to twelve thousand dollars.

St. 1959, c. 566, effective December 7, increased maximum weekly benefits to forty-five dollars per week, increased total amount payable to fourteen thousand dollars, except that where employee has received compensation for same injury under section thirty-five the combined amount of compensation payable under this section and section thirty-five shall not exceed the maximum

amount as set forth in section thirty-five.

St. 1961, c. 602, effective August 29, 1961, increased maximum weekly benefits to fifty dollars per week, increased total amount payable to sixteen thousand dollars, except where employee has also received compensation under section thirty-five the combined amount of compensation payable under this section and section thirty-five shall not exceed the maximum amount as set forth in section thirty-five.

St. 1963, c. 460, effective November 1, 1963, increased maximum weekly benefits to fifty-three dollars per week.

St. 1965, c. 644, effective November 15, 1965, increased maximum weekly benefits to fifty-eight dollars per week.

St. 1967, c. 482, effective November 12, increased maximum weekly benefits to sixty-two dollars.

St. 1967, c. 482, effective October 13, 1968, increased maximum weekly benefits to sixty-five dollars.

St. 1964, c. 529, effective November 23, increased maximum weekly benefit to seventy dollars.

St. 1971, c. 879, effective November 1, increased maximum weekly benefits to seventy-seven dollars; and increased the combined maximum compensation payable to $20,000 under Section 34 and 35.

St. 1971, c. 879, effective November 1, 1972, increased maximum weekly benefits to eighty dollars.

St. 1973, c. 978, effective November 2, 1973, increased maximum weekly benefits to ninety dollars, and increased combined maximum under Sections 34 and 35 to $22,500.

St. 1973, c. 978, effective November 2, 1974, increased maximum weekly benefits to ninety-five dollars, and increased combined maximums under Sections 34 and 35 to $23,750.

Section 34A. While the incapacity for work resulting from the injury is both permanent and total, the insurer shall pay to the injured employee, following payment of the maximum amount of compensation provided in sections thirty-four and thirty-five, or either of them, a weekly compensation equal to two thirds of the average weekly wage but not more than ninety-five dollars per week nor less than twenty dollars a week during the continuance of such permanent and total incapacity. Application for payments under this section may be made by an injured employee before he has received the maximum compensation to which he is or may be entitled under the aforesaid sections.

In any proceedings brought by the insurer to discontinue compensation under this section, a member or the reviewing board may, after hearing, order the insurer to continue payments to the injured employee hereunder. The reasonable costs of such proceeding, including therein reasonable counsel fees and witness fees of physicians appearing at such proceeding, shall be determined by the board and shall be paid by the insurer.

St. 1935, c. 364, original enactment, effective September 19, read as follows:

"At any time before or after an injured employee has received the maximum compensation to which he is or may be entitled under sections thirty-four and thirty-five, or either of them, such employee and the insurer may agree, or, on application for a hearing by either party, a member or, on review, the board may find, that the disability suffered by the injured employee is total and permanent. After such an agreement or finding, during the continuance of such total and permanent disability, the insurer shall make or continue to make payments to the injured employee under section thirty-four so long as compensation is payable under said section, and thereafter during such continuance shall pay to the injured employee a weekly compensation equal to one-half his average weekly wages, but not more than eighteen dollars a week nor less than nine dollars a week, except that the weekly compensation of the injured employee shall be equal to his average weekly wages in case such wages are less than nine dollars; but in no case shall such compensation be less than seven dollars a week where the normal working hours of the injured employee were fifteen hours or more a week. In any hearing or investigation under this chapter, loss of both hands, or both feet, or both legs, or both eyes, or injury to the skull resulting in incurable imbecility or insanity, or injury to the spine resulting in permanent and complete paralysis of both legs or both arms shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined in accordance with the facts, and proof thereof shall be by weight of the evidence. If an employee who has been agreed or found to be totally and permanently disabled earns wages at any time thereafter, payments of compensation may be suspended in the manner provided by section twenty-nine. If such wages are earned before the injured employee has received the maximum compensation to which he is or may be entitled as aforesaid, such employee, during the period of suspension, may, if otherwise entitled thereto, receive payments under section thirty-five; but if

such wages are earned after he has received such maximum, no payments shall be made during such period."

St. 1943, c. 276, effective August 12, increased the maximum weekly payment to twenty dollars and the minimum to eleven dollars.

St. 1945, c. 717, effective October 23, substituted new section increasing the maximum weekly compensation to twenty-two dollars and the minimum to fifteen dollars, striking out the provisions for a minimum rate of compensation where the normal working hours were fifteen or more, rate of compensation where average weekly wages less than the minimum the manner of determination of permanent total disability and suspension of payments, and the definition of what should constitute such disability in the absence of proof to the contrary. It added the last paragraph which contains a new provision for the assessment of costs, including reasonable counsel fees and witness fees of physicians.

St. 1946, c. 321, § 2, effective August 15, increased the maximum weekly payment to twenty-five dollars and the minimum to eighteen dollars in cases of injuries occurring on or after August 15.

St. 1949, c. 520, § 2, effective October 6, increased weekly rate from one-half to two-thirds of average weekly wage but not more than thirty dollars.

St. 1955, c. 777, § 2, effective December 13, increased the maximum weekly payment to thirty-five dollars and the minimum to twenty dollars.

St. 1956, c. 735, effective January 3, 1957, inserted provision: after employee has received weekly compensation under section thirty-four or thirty-four A for thirteen weeks, the maximum shall be not more than forty dollars per week.

St. 1958, c. 665, effective January 15, 1958, increased the maximum weekly payment to forty dollars.

St. 1959, c. 566, effective December 7, increased the maximum weekly payment to forty-five dollars.

St. 1961, c. 602, effective August 29, increased the maximum weekly payment to fifty dollars.

St. 1963, c. 460, effective November 1, 1963, increased the maximum weekly payment to fifty-three dollars.

St. 1965, c. 644, effective November 15, 1965, increased the maximum weekly payment to fifty-eight dollars.

St. 1967, c. 482, effective November 12, increased maximum weekly payment to sixty-two dollars.

St. 1967, c. 482, effective October 13, 1968, increased maximum weekly payment to sixty-five dollars.

St. 1969, c. 529, effective November 23, increased maximum weekly payment to seventy dollars.

St. 1971, c. 879, effective November 1, increased maximum weekly payment to seventy-seven dollars.

St. 1971, c. 879, effective November 1, 1972, increased maximum weekly payment to eighty dollars.

St. 1973, c. 978, effective November 2, increased maximum weekly payments to ninety dollars.

St. 1973, c. 978, effective November 2, 1974, increased maximum weekly payments to ninety-five dollars.

Section 35. While the incapacity for work resulting from the injury is partial, the insurer shall pay the injured employee a weekly compensation equal to the entire difference between his average weekly wage before the injury and the average weekly wage he is able to earn thereafter, but not more than ninety-five dollars per week; and the amount of such compensation shall not be more than twenty-three thousand seven hundred and fifty dollars nor shall the combined amount of compensation payable under this section and section thirty-four be more than twenty-three thousand seven hundred and fifty dollars.

St. 1911, c. 751, Pt. II, § 10, original enactment read as follows:

"While the incapacity for work resulting from the injury is partial, the association shall pay the injured employee a weekly compensation equal to one-half the difference between his average weekly wages before the injury and the average weekly wages which he is able to earn thereafter, but not more than ten dollars a week; and in no case shall the period covered by such compensation be greater than three hundred weeks from the date of the injury."

St. 1914, c. 708, § 5, effective October 1, changed the rate of weekly compensation from one-half to two-thirds, increased the compensation period from three hundred weeks to five hundred weeks and increased the maximum from three thousand dollars to four thousand dollars.

St. 1919, c. 205, effective August 27, increased the maximum weekly compensation from ten dollars to sixteen dollars, striking out the limitations as to the period during which such partial incapacity compensation shall be paid, and provided that the amount of such compensation be

not more than four thousand dollars.

St. 1927, c. 309, § 8, effective July 25, increased the maximum weekly compensation to eighteen dollars and the total amount payable to forty-five hundred dollars.

St. 1943, c. 299, effective August 17, increased weekly maximum to twenty dollars.

St. 1945, c. 717, effective October 23, increased weekly compensation to an amount "equal to the entire difference between his average weekly wage before the injury and the average weekly wage he is able to earn thereafter, but not more than twenty-two dollars a week", and the total amount payable to seventy-five hundred dollars.

St. 1946, c. 321, § 3, effective August 15, increased weekly maximum to twenty-five dollars and total amount payable to ten thousand dollars in cases of personal injuries occurring on or after effective date.

St. 1949, c. 520, § 3, effective October 6, increased weekly maximum to thirty dollars.

St. 1955, c. 777, § 3, effective December 13, increased maximum weekly payments to thirty-five dollars.

St. 1958, c. 665, § 3, effective January 15, 1959, increased maximum weekly payment to forty dollars; increased total amount payable to twelve thousand dollars.

St. 1959, c. 566, effective December 7, increased weekly maximum compensation to forty-five dollars; increased the total amount to fifteen thousand dollars.

St. 1961, c. 602, § 3, effective August 29, 1961, increased maximum weekly payment to fifty dollars and total amount payable to eighteen thousand dollars.

St. 1963, c. 460, effective November 1, 1963, increased maximum weekly payment to fifty-three dollars.

St. 1965, c. 644, effective November 15, 1965, increased the maximum weekly payment to fifty-eight dollars.

St. 1967, c. 482, effective November 12, increased the maximum weekly payments to sixty-two dollars.

St. 1967, c. 482, effective October 13, 1968, increased the maximum weekly payments to sixty-five dollars.

St. 1969, c. 529, effective November 23, increased the maximum weekly payments to seventy dollars.

St. 1971, c. 879, effective November 1, increased the maximum weekly payments to seventy-seven dollars. and increased maximum compensation payable to $20,000 under section 34 and 35.

St. 1971, c. 879, effective November 1, 1972, increased the maximum weekly payments to eighty dollars.

St. 1973, c. 978, effective November 2, increased the maximum weekly payments to ninety dollars, and increased maximum compensation payable to $22,500 under sections 34 and 35.

St. 1973, c. 978, effective November 2, 1974, increased the maximum weekly payments to ninety-five dollars, and increased maximum compensation payable to $23,750 under sections 34 and 35.

Section 35A. Where the injured employee has persons conclusively presumed to be dependent upon him or in fact so dependent, the sum of six dollars shall be added to the weekly compensation payable under sections thirty-four, thirty-four A and thirty-five, for each person wholly dependent on the employee, but in no case shall the aggregate of such amounts exceed the average weekly wages of the employee. For the purposes of this section the following persons shall be conclusively presumed to be wholly dependent for support upon an employee: —

(a) A wife upon a husband with whom she lives at the time of his injury.

(b) A husband upon a wife with whom he is living at the time of her injury; provided, that he is physically or mentally incapacitated from earnings.

(c) Children under the age of eighteen years, or over said age but physically or mentally incapacitated from earning, if living with the employee at the time of his injury, or, if the employee is bound or ordered by law, decree or order of court, or by any other lawful requirement, to support such children, although living apart from them, or over said age and a full-time student qualified for exemption as a dependent under section one hundred and fifty-one (e) of the Internal Revenue Code. Children within the meaning of this paragraph, shall also include any children of the injured employee conceived but not born at the time of the employee's injury, and the compensation herein provided for shall be payable on account of any such children from the date of their birth.

(d) A parent upon an unmarried child under the age of eighteen. In all

other cases questions of dependency shall be determined in accordance with the fact as the fact may be at the time of the injury.

The division or any member thereof may in its or his discretion order the insurer or self-insurer to make payment of the six dollars aforesaid directly to the dependent.

St. 1945, c. 717, effective October 23, was original enactment of this section and imported conclusive presumptions in section thirty-two.

St. 1946, c. 553, effective September 11, new section substituted.

St. 1950, c. 282, § 1, effective July 2, added in sub-paragraph (c) phrase "or over said age but physically or mentally incapacitated from earning" and also added second sentence in (c).

St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department".

St. 1956, c. 735, effective January 3, 1957, increased weekly dependency compensation to three dollars.

St. 1957, c. 641, effective November 4, increased weekly dependency compensation to four dollars.

St. 1959, c. 566, effective December 7, increased weekly dependency compensation to six dollars.

St. 1974, c. 43532; effective November 1, substituted first sentence of sub-paragraph (c) which added provision for full time student over eighteen years of age; applicable to injuries under § 3 occurring after effective date.

Section 35B. An employee who has been receiving compensation under this chapter and who has returned to work for a period of not less than two months shall, if he is subsequently injured and receives compensation, be paid such compensation at the rate in effect at the time of the subsequent injury whether or not such subsequent injury is determined to be a recurrence of the former injury; provided, that if compensation for the old injury was paid in a lump sum, he shall not receive compensation unless the subsequent claim is determed to be a new injury.

St. 1970, c. 667, effective February 1, 1971, new section.

Section 36. In addition to all other compensation the employee shall be paid the sums hereafter designated for the following specified injuries: —

(a) For the loss by enucleation or otherwise, or the total loss of use of one eye, or for injury to one eye which produces an inability which is not correctible to use both eyes together for single binocular vision, or the reduction to twenty seventieths of normal vision in one eye, with glasses, the sum of six thousand dollars.

(b) For the loss by enucleation or otherwise, or the total loss of use of both eyes, or the reduction to twenty seventieths of normal vision in both eyes, with glasses, the sum of fifteen thousand dollars.

(c) For any correctible permanent but partial reduction in either the acuity or field of vision of one or both eyes, such sum in proportion to the amount applicable in the event of total loss, total loss of use, or the reduction to twenty seventieths of normal vision of one or both eyes as the correctible partial reduction bears to such total loss, total loss of use or reduction to twenty seventieths of normal vision; provided that, for any permanent but partial reduction in either acuity or field of vision of either eye which requires the use of a corrective device, such as glasses or contact lens, to produce normal vision, the sum of one thousand dollars shall be awarded.

(d) For the loss of hearing of one ear, the sum of four thousand five hundred dollars; for the loss of hearing of both ears, the sum of twelve thousand dollars.

(e) For the amputation or permanent total loss of use of the right or major arm, the sum of six thousand seven hundred and fifty dollars; for the amputation or permanent total loss of use of the left or minor arm, the sum of six thousand dollars; for the amputation or permanent total loss of use of both arms, the sum of fifteen thousand dollars.

(f) For the amputation or permanent total loss of use of the right or major hand at the wrist, the sum of five thousand two hundred and fifty dollars; for the amputation or permanent total loss of use of the left or minor hand at the wrist, the sum of four thousand five hundred dollars; for the amputation or permanent total loss of use of both hands at the wrists; the sum of twelve thousand dollars.

(g) For the amputation or permanent total loss of use of either leg, the sum of six thousand dollars; for the amputation or permanent total loss of use of both legs, the sum of fifteen thousand dollars.

(h) For the amputation or permanent total loss of use of either foot at any point above the ankle joint, the sum of four thousand five hundred dollars; for the amputation or permanent total loss of use of both feet at any point above the ankle joints, the sum of ten thousand five hundred dollars.

(i) For any permanent but partial loss of a member, whether leg, foot, arm or hand, such sum in proportion to the amount applicable in the event of amputation or permanent total loss of use of said member as the said partial loss bears to the total loss of use of said member.

(j) For each loss of bodily function or sense, other than those specified in preceding paragraphs of this section, the amount which, according to the determination of the industrial accident board, reviewing board or single member, is a proper and equitable compensation, not to exceed five thousand dollars; provided, however, that the total amount payable under this paragraph shall not exceed twelve thousand five hundred dollars.

(k) For bodily disfigurement, an amount which, according to the determination of the said board, reviewing board or single member, is a proper and equitable compensation, not to exceed six thousand six hundred dollars; which sum shall be payable in addition to all other sums due under this section.

Nothing in this section shall adversely affect the employee's right to any compensation which is or may become due under the provisions of this or any other section.

St. 1911, c. 751, c. Pt. II, § 11, original enactment, read as follows:

"In case of the following specified injuries, the amounts hereinafter named shall be paid in addition to all other compensation.

(a) For the loss by severance of both hands at or above the wrist, or both feet at or above the ankle, or the loss of one hand and one foot, or the entire and irrecoverable loss of the sight of both eyes, one half of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of one hundred weeks.

(b) For the loss by severnce of either hand at or above the wrist, or either foot at or above the ankle, or the entire and irrecoverable loss of the sight of either eye, one-half of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of fifty weeks.

(c) For the loss by severance at or above the second joint of two or more fingers, including thumbs, or toes, one-half of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of twenty-five weeks.

(d) For the loss by severance of at least one phalange of a finger, thumb or toe, one-half of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of twelve weeks."

St. 1912, c. 571, § 2, effective May 10, provided for specific compensation for the reduction of vision in either or both eyes to one-tenth of normal with glasses, striking out the words "entire and irrecoverable loss of sight."

St. 1913, c. 445, § 1, effective April 7, adding new paragraph (e), provided for the payment of specific compensation, if the injury rendered the hand, foot, thumb, finger or toe "incapable of use" and provided further that specific compensation should cease when incapacity terminated.

St. 1913, c. 696, § 1, effective May 22, added the word "permanently" to the phrase "incapable of use" and struck out the provision that specific compensation should cease when incapacity terminated.

St. 1914, c. 708, § 6, effective October 1, substituted a new section increasing the rate of specific compensation from one-half to two-thirds of the employee's average weekly wages, retaining the same minimum and maximum, and providing specifically for payment for each hand or foot

so injured.

St. 1928, c. 356, effective August 27, substituted entire new section reading as follows:

"(a) For the loss by severance of both hands at or above the wrist, two thirds of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of one hundred and seventy-five weeks.

(b) For the reduction to twenty-seventieths or normal vision in both eyes, with glasses, two-thirds of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of one hundred and fifty weeks.

(c) For the loss by severance of both feet at or above the ankle, two-thirds of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of one hundred weeks.

(d) For the loss by severance of the right or major hand at or above the wrist, two-thirds of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of seventy-five weeks.

(e) For the loss by severance of the left or minor hand at or above the wrist, or of either foot at or above the ankle, two-thirds of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of fifty weeks.

(f) For the reduction to twenty-seventieths of normal vision in either eye, with glasses, two-thirds of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of fifty weeks.

(g) For the loss by severance at or above the second joint of the thumb of the right or major hand, two-thirds of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of forty weeks.

(h) For the loss by severance at or above the second joint of the index finger of the right or major hand, two-thirds of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of twenty weeks.

(i) For the loss by severance of one phalange of the thumb of the right or major hand, two-thirds of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of twenty weeks.

(j) For the loss by severance at or above the second joint of two or more fingers of the same hand which, in the case of the left or minor hand, may include the thumb, or of two or more toes of the same foot, two-thirds of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of twenty-five weeks, for each hand or foot so injured, but no compensation shall be payable under this paragraph on account of injury to the right or major hand in case one or more phalanges of the thumb of that hand or two or more phalanges of the index finger of that hand are lost by severance.

(k) For the loss by severance of at least one phalange of any finger, or of the thumb of the left or minor hand, or of any toe, two-thirds of the average weekly wages of the injured person, but not more than ten dollars, nor less than four dollars a week for a period of twelve weeks, for each hand or foot so injured, but no compensation shall be payable under this paragraph for the loss by severance of one or more phalanges of the thumb of the right or major hand or for the loss by severance of two or more phalanges of the index finger of the right or major hand.

(i) The additional amounts provided for in this section in case of the loss of a particular hand, foot, thumb, finger, toe or phalange shall also be paid for the number of weeks above specified if the injury is such that that hand, foot, thumb, finger, toe or phalange is not lost but so injured as to be permanently incapable for use."

St. 1930, c. 336, effective August 20, substituted new paragraph (k) reading as follows:

"(k) For the loss by severance of the terminal phalange or phalanges of any finger or fingers, not exceeding three on the same hand, which for the purposes hereof may include the thumb of the left or minor hand but not of the right or major hand, two-thirds of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of twelve weeks in case of the loss by severance of one such terminal phalange, or for a period of twenty-two weeks in case of the loss as aforesaid of two such terminal phalanges on the same hand, or for a period of thirty weeks in case of the loss as aforesaid of three or more such terminal phalanges on the same hand; provided, that no compensation shall be payable under this paragraph for the loss by severance of any phalange for the loss of which compensation is payable under any other paragraph of this section, and provided further, that compensation shall be payable under this paragraph on account of injury to one hand only for such number of weeks as, together with the number of weeks during which compensation is payable under any other paragraph of this section for injury to the same hand, will not exceed forty-seven in the case of the left or minor hand or seventy-two in the case of the right or major hand."

St. 1930, c. 336, effective August 20, added paragraph (k½) reading as follows:

"(k½) For the loss by severance of at least one phalange of any toe, two-thirds of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of twelve weeks, for each foot so injured."

St. 1933, c. 257, effective September 8, substituted new paragraph (j) reading as follows:

"(j) For the loss by severance of two phalanges of each of two fingers of the same hand which

for the purposes hereof may include the thumb of the left or minor hand but not the thumb or index finger of the right or major hand, or of each of two or more toes of the same foot, two-thirds of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week for a period of twenty-five weeks, for each hand or foot so injured, and any compensation payable under this paragraph shall be in addition to any compensation payable under paragraphs (g), (h), (i), and (k), or any of them, subject, however, to the limitation contained in said paragraph (k)."

St. 1935, c. 333, effective September 3, eliminated minimum and maximum rates, establishing a fixed rate of ten dollars a week. General phraseology and designation of paragraphs changed to read as follows:

Section 36. In case of the following specified injuries the sum of ten dollars a week shall be paid, in addition to all other compensation, for the following periods:

(a) For the loss by severance of both hands at or above the wrist, a period of one hundred and seventy-five weeks.

(b) For the reduction to twenty-seventieths of normal vision in both eyes, with glasses, a period of one hundred and fifty weeks.

(c) For the loss by severance of both feet at or above the ankle, a period of one hundred weeks.

(d) For the loss by severance of the right or major hand at or above the wrist, a period of seventy-five weeks.

(e) For the loss by severance of the left or minor hand at or above the wrist, or of either foot at or above the ankle, a period of fifty weeks.

(f) For the reduction to twenty-seventieths of normal vision in either eye, with glasses a period of fifty weeks.

(g) For the loss by severance at or above the second joint of the thumb of the right or major hand, a period of forty weeks.

(h) For the loss by severance at or above the second joint of the index finger of the right or major hand, a period of twenty weeks.

(i) For the loss by severance of one phalange of the thumb of the right or major hand, a period of twenty weeks.

(j) For the loss by severance of two phalanges of each of two fingers of the same hand which for the purposes hereof may include the thumb of the left or minor hand but not the thumb or index finger of the right or major hand, or of each of two or more toes of the same foot, a period of twenty-five weeks for each hand or foot so injured, and any compensation payable under this paragraph shall be in addition to any compensation payable under paragraphs (g), (h), (i), and (k), or any of them, subject, however, to the limitation contained in said paragraph (k).

(k) For the loss by severance of the terminal phalange or phalanges of any finger or fingers, not exceeding three on the same hand, which for the purposes hereof may include the thumb of the left or minor hand but not of the right or major hand, a period of twelve weeks in case of the loss by severance of one such terminal phalange, or a period of twenty-two weeks in case of the loss as aforesaid of two such terminal phalanges on the same hand, or a period of thirty weeks in case of the loss as aforesaid of three or more such terminal phalanges on the same hand; provided, that no compensation shall be payable under this paragraph for the loss by severance of any phalange for the loss of which compensation is payable under any other paragraph of this section, and provided, further, that compensation shall be payable under this paragraph on account of injury to one hand only for such number of weeks as, together with the number of weeks during which compensation is payable under any other paragraph of this section for injury to the same hand, will not exceed forty-seven in the case of the left or minor hand or seventy-two in the case of the right or major hand.

(l) For the loss by severance of at least one phalange of any toe, a period of twelve weeks, for each foot so injured.

(m) The additional amounts provided for in this section in case of the loss of a particular hand, foot, thumb, finger, toe or phalange shall also be paid for the number of weeks above specified if the injury is such that that hand, foot, thumb, finger, toe or phalange is not lost but so injured as to be permanently incapable of use.

St. 1946, c. 386, § § 1, 2, increased period of payment in paragraph (f) from fifty weeks to one hundred and twenty weeks in case of injuries occurring on or after August 29.

St. 1947, c. 634, effective September 26, increased period of payment in paragraph (d) from seventy-five to one hundred weeks, and the period of payment in paragraph (e) from fifty to seventy-five weeks; it also added at the end the following paragraph providing for payments under this section when employee died before collecting the payments:

"In the event of the death of an employee entitled to payments hereunder, his widow or dependents shall be paid the sums which would otherwise have been paid to him; provided, that no person shall receive payments under this paragraph and also under the pertinent provisions of law authorizing payment on account of the injury resulting in such death."

St. 1947, c. 664, increased period of payment in paragraph (b) from one hundred and fifty weeks to three hundred weeks in cases of injuries occurring on or after September 28.

St. 1949, c. 519, effective October 6, substituted entire new section, which reads as follows:

In case of the following specified injuries the sum of twenty dollars a week shall be paid, in addition to all other compensation, for the following periods:—

(a) For the loss by enucleation or otherwise, or the total loss of use of both eyes, a period of five hundred weeks.

(b) For the reduction to twenty seventieths of normal vision in both eyes, with glasses, a period of five hundred weeks.

(c) For the reduction to twenty seventieths of normal vision in one eye, with glasses, a period of two hundred weeks.

(d) For the loss by enucleation or otherwise, or the total loss of use of one eye, a period of two hundred weeks.

(e) For any permanent but partial reduction in either the acuity or field of vision of either eye, such period of weeks in proportion to the period applicable in the event of total loss, total loss of use, or the reduction to twenty seventieths of normal vision of one or both eyes as the partial reduction bears to such total loss, total loss of use or reduction to twenty seventieths of normal vision.

(f) For the loss of hearing of both ears, two hundred weeks.

(g) For the loss of hearing of one ear, one hundred weeks.

(h) For bodily disfigurement the number of weeks which, according to the determination of the industrial accident board, is a proper and equitable compensation, not to exceed one hundred and twenty-five weeks, which sum shall be payable in addition to all other sums under this section wherever the same shall be applicable.

(i) For loss of bodily functions or sense other than hearing and sight the number of weeks which, according to the determination of said board, is a proper and equitable compensation, not to exceed one hundred weeks.

(j) For loss by severance of the right or major arm at the shoulder, a period of one hundred and seventy-five weeks.

(k) For loss by severance of the left or minor arm at the shoulder, a period of one hundred and fifty weeks.

(l) For loss by severance of the right or major hand at the wrist, a period of one hundred and twenty-five weeks.

(m) For loss by severance of the left or minor hand at the wrist, a period of one hundred weeks.

(n) For the loss by severance of either leg at the hip, a period of one hundred and seventy-five weeks.

(o) For the loss by severance of either foot at any point above the ankle joint, a period of one hundred and twenty-five weeks.

(p) For such periods in the case of an arm or a leg, that if either is amputated at or above the elbow or the knee it or they shall be treated as though at the shoulder or the hip; but if amputated below the elbow or the knee it or they shall be treated as though at the at the ankle or the wrist.

(q) If the member, whether leg, foot, arm or hand, is not lost by severance, but is so injured as to be permanently incapable of use, for the same number of weeks though it were severed.

(r) If the fingers, toes or other parts of the hand or foot have been severed or permanently rendered incapable of use, such period of weeks in proportion to the period applicable in the event of total loss of use of said hand or foot as the funtional loss arising out of said severed or inutile part of said hand or foot bears to the total loss or loss of use of the same.

St. 1952, c. 60, effective May 25, added in paragraph (h) and (i) the words "reviewing board or single member" after the word "board."

St. 1952, c. 84, effective February 27, added in paragraph (q) provision for proportional payment where loss of use is less than total.

St. 1953, c. 64, effective May 18, added last paragraph permitting payment in a bulk sum.

St. 1959, c. 199, effective July 14, substituted word "shall" for the word "may" in line one of last paragraph.

St. 1959, c. 230, effective July 20, added in paragraph (d) the words "or for injury to one eye which produces an inability which is not correctible to use both eyes together for single binocular vision."

St. 1959, c. 545, effective November 29, increased period of payment in paragraph (f) from two hundred weeks to three hundred weeks; added to paragraph (n), "for loss by severance of both legs at the hip, a period of four hundred weeks"; added to paragraph (o), "for the loss by severance of both feet at any point above the ankle joint, a period of three hundred and twenty-five weeks"; added paragraph (s), for loss by severance of both hands at the wrist, a period of three hundred weeks, also added paragraph (t), for loss by severance of both arms at the shoulder, a period of four hundred weeks.

St. 1962, c. 471, effective November 1, 1962, substituted entire new section, which reads as follows:

In case of the following specified injuries the sum of twenty dollars a week shall be paid, in addition to all other compensation, for the following periods:—

(a) For the loss by enucleation or otherwise, or the total loss of use of both eyes, a period of five hundred weeks.

(b) For the reduction to twenty seventieths of normal vision in both eyes, with glasses, a period of five hundred weeks.

(c) For the reduction to twenty seventieths of normal vision in one eye, with glasses, a period of two hundred weeks.

(d) For the loss by enucleation or otherwise, or the total loss of use of one eye, or for injury to one eye which produces an inability which is not correctible to use both eyes together for single binocular vision, a period of two hundred weeks.

(e) For any permanent but partial reduction in either the acuity or field of vision of either eye, such period of weeks in proportion to the period applicable in the event of total loss, total loss of use, or the reduction to twenty seventieths of normal vision of one or both eyes as the partial reduction bears to such total loss, total loss of use or reduction to twenty seventieths of normal vision.

(f) For the loss of hearing of both ears, four hundred weeks.

(g) For the loss of hearing of one ear, one hundred and fifty weeks.

(h) For bodily disfigurement the number of weeks which, according to the determination of the industrial accident board, reviewing board or single member, is a proper and equitable compensation, not to exceed two hundred and twenty weeks, which sum shall be payable in addition to all other sums under this section wherever the same shall be applicable.

(i) For loss of bodily functions or sense other than hearing and sight the number of weeks which, according to the determination of said board, reviewing board or single member, is a proper and equitable compensation, not to exceed one hundred and seventy-five weeks.

(j) For loss by severance of the right or major arm at the shoulder, a period of two hundred and twenty-five weeks.

(k) For loss by severance of the left or minor arm at the shoulder, a period of two hundred weeks.

(l) For loss by severance of the right or major hand at the wrist, a period of one hundred and seventy-five weeks.

(m) For loss by severance of the left or minor hand at the wrist, a period of one hundred and fifty weeks.

(n) For the loss by severance of either leg at the hip, a period of two hundred weeks; for the loss by severance of both legs at the hip, a period of five hundred weeks.

(o) For the loss by severance of either foot at any point above the ankle joint, a period of one hundred and fifty weeks; for the loss by severance of both feet at any point above the ankle joint, a period of three hundred and fifty weeks.

(p) For such periods in the case of an arm or a leg, that if either is amputated at or above the elbow or the knee it or they shall be treated as though at the shoulder or the hip; but if amputated below the elbow or the knee it or they shall be treated as though at the ankle or the wrist.

(q) If the member, whether leg, foot, arm or hand, is not lost by severance, but is so injured as to be permanently incapable of use, for the same number of weeks as though it were severed; provided, however, that if the loss of use is less than total, then for such period of weeks in proportion to the period applicable in the event of total loss of use of said leg, foot, arm or hand as the funtional loss bears to the total loss of use of such leg, foot, arm or hand.

(r) If the fingers, toes or other parts of the hand or foot have been severed or permanently rendered incapable of use, such period of weeks in proportion to the period applicable in the event of total loss or total loss of use of said hand or foot as the functional loss arising out of said severed or inutile part of said hand or foot bears to the total loss or loss of use of the same.

(s) For loss by severance of both hands at the wrist, a period of four hundred weeks.

(t) For loss by severance of both arms at the shoulder, a period of five hundred weeks.

The weekly payments provided for in this section shall at the discretion of the board or any member thereof be paid to the employee in a bulk sum. Nothing in this section shall adversely affect the employee's right to any compensation which is or may become due under the provisions of this or any other section.

St. 1966, c. 584, effective November 29, increased weekly payments under all sub-paragraphs from twenty to twenty-five dollars.

St. 1972, c. 741, effective November 1, substituted present text.

Section 36A. In the event that an injured employee who has become entitled to compensation under section thirty-six dies before fully collecting the said compensation, the balance remaining shall become due and payable in a lump sum to his dependent, or if none, to his surviving issue, or if no surviving issue, then to surviving parents, or if no surviving parents then to surviving brothers and sisters. If there are none of the persons described in the preceding sentence remaining to receive such compensation, then the balance of compensation remaining at the death of the employee shall be

paid into the special fund in the custody of the state treasurer established under section sixty-five, to be used for the purposes and in the manner prescribed in said section sixty-five.

NOTE: This section had its basis in St. 1947, c. 634, effective September 26, which appeared as last paragraph in section thirty-six and read as follows:

"In the event of the death of an employee entitled to payments hereunder, his widow or dependents shall be paid the sums which would otherwise have been paid to him; provided, that no person shall receive payments under this paragraph and also under the pertinent provisions of law authorizing payment on account of the injury resulting in such death."

St. 1949, c. 519, effective October 6, new secton read as follows:

"In the event that an injured employee who has become entitled to compensation under section thirty-six dies before fully collecting the said compensation, the balance remaining shall become due and payable in a lump sum to his dependents or if none to his father or mother, or if none to his brothers and sisters and to the issue of any deceased brother or sister by right of representation."

St. 1950, c. 445, effective August 8, amended to include employee's own children, so that section reads:

"In the event that an injured employee who has become entitled to compensation under section thirty-six dies before fully collecting the said compensation, the balance remaining shall become due and payable in a lump sum to his dependent. In the event he is not survived by any dependents, then such balance remaining shall be paid in the manner aforesaid to any surviving children, or if no children, then to surviving parents; if no surviving parents, then to surviving brothers and sisters or to the issue of any deceased brother or sister by right of representation."

St. 1951, c. 494, effective October 5, substituted present text making the following changes: Changing "children" to "issue", striking out clause "or to the issue of any deceased brother or sister by right of representation." Added last sentence on payment into special fund.

Section 37. Whenever an employee who has a known physical impairment which is due to any previous accident, disease or any congenital condition and is, or is likely to be, a hindrance or obstacle to his employment, and who, in the course of and arising out of his employment, receives a personal injury for which compensation is required by this chapter and which results in disability that is substantially greater by reason of the combined effects of such impairment and subsequent personal injury than that disability which would have resulted from the subsequent personal injury alone, the insurer or self-insurer shall pay all compensation provided by this chapter. Such insurer or self-insurer shall, however, be reimbursed by the state treasurer from the fund created by section sixty-five in an amount not to exceed fifty per cent of all compensation subsequent to that paid for the first one hundred and four weeks of disability.

If said subsequent injury is caused by the pre-existing impairment or if said subsequent personal injury of such an employee shall result in the death of the employee, and it shall be determined that the death would not have occurred except for such pre-existing physical impairment, the insurer or self-insurer shall pay all compensation provided by this chapter. Such insurer or self-insurer shall, however, be reimbursed by the state treasurer from the fund created by section sixty-five in an amount not to exceed fifty per cent of all compensation paid in excess of that paid for the first one hundred and four weeks.

Personal knowledge upon the part of the employer as to the existence of such pre-existing physical impairment shall not be required for reimbursement as provided by this section; provided, however, that proof of the pre-existence of such impairment shall be directly established from medical records existing prior to the date of employment or retention in employment of such an employee, or from information established by the employer not later than thirty days subsequent to the date of employment from either a physical examination, employment application questionnaire or statement from the employee.

The word "compensation" as used in this section for the purpose of reim-

bursement hereunder shall include all payments to the employee, or to his dependents in case of death, provided for by sections thirty, thirty A, thirty-one, thirty-two, thirty-three, thirty-four, thirty-four A, thirty-five, thirty-five A, thirty-six and thirty-six A.

In the event that liability for any case arising under this section is redeemed by a lump sum payment as provided in section forty-eight, and if the attorney general has been given an opportunity to appear and be heard on behalf of the fund, and when the order of the division refers to the provisions of this section, reimbursement shall be made without the necessity of further approval of the lump sum by the state treasurer; but no reimbursement shall be made covering the first one hundred and four weekly payments, whether paid under an agreement, decision or lump sum settlement.

St. 1919, c. 272, § 2, effective September 29, new section.

St. 1931, c. 426, § 253, effective September 7, substituted "twenty-seventieths" for "one-tenth."

St. 1937, c. 321, effective May 20, added "thirty-four A" to section enumerated.

St. 1950, c. 527, effective September 10, changed "personal injury" to "physical impairment"; substituted "dependents" for "dependent"; substituted present method of payment of compensation which originally was paid one-half directly by insurer and one-half directly by the state treasurer; further defined word "compensation" to include medical and hospital services.

St. 1957, c. 287, effective July 11, amended first paragraph by adding "section thirty-five A."

St. 1973, c. 855, effective December 31, substituted present text.

Section 37A. Any employee who is a war veteran and disabled as the result of his military or naval service and has been certified as such by the United States Veterans Administration and who, in the course of and arising out of his employment, receives a personal injury which is aggravated or prolonged by such disability for which he is receiving compensation from said administration, shall receive the compensation provided by this chapter, or said compensation shall be paid to his dependents, if death results from the injury. Such compensation shall be paid by the insurer or self-insurer, who shall be reimbursed, in an amount not to exceed fifty per cent thereof for any period up to one hundred and four weeks and thereafter in an amount not to exceed one hundred percent, by the state treasurer from the fund created by section sixty-five.

St. 1945, c. 623, § 2, effective October 15, new section. Statutes 1965, c. 891, effective April 6, 1966, amended section by substituting the second sentence which read: "such compensation shall be paid by the insurer or self-insurer, who shall be re-imbursed for fifty percent thereof by the state treasurer from the fund extablished by secton 65 N.

St. 1973, c. 855, effective December 31, substituted second sentence.

Section 38. No savings or insurance of the injured employee independent of this chapter shall be considered in determining the compensation payable thereunder, nor shall benefits derived from any other source than the insurer be considered in such determination.

St. 1911, c. 751, Pt. II, § 12, original enactment.

Section 39. The compensation payable in case of the death of the injured employee shall be paid to his legal representative; or, if he has no legal representative, to his dependents; of, if he leaves no dependent, to the persons to whom payment of the expenses for the last sickness and burial is due. If payment is made to the legal representative of the deceased employee, it shall be paid by him to the dependents or other persons entitled thereto under this chapter. When the appointment of a legal representative of a deceased employee or dependent, or the appointment of a guardian or conservator of an employee or dependent who is a minor or is insane or is otherwise legally incapacitated, is required to comply with this chapter, the insurer shall furnish or pay for legal services rendered in connection with the appointment

of such legal representative, guardian or conservator or in connection with his duties, shall pay the necessary disbursements for such appointment, the necessary expenses of such legal representative, guardian or conservator, and reasonable compensation to him for time necessarily spent in complying therewith. Said payments shall be in addition to sums paid for compensation.

St. 1911, c. 751, Pt. II, § 13, original section.

St. 1914, c. 708, § 7, effective October 1, added: "When the appointment of a legal representative of a deceased employee, not otherwise necessary, is required for carrying out the provisions of this act, the association shall furnish or pay for all legal services rendered in connection with the appointment of such legal representative, or in connection with any of his duties, and shall pay the necessary disbursements for such appointment, the necessary expenses of such legal representative, and reasonable compensation to him for time necessarily spent in carrying out said provisions. All of such payments shall be in addition to all sums paid for compensation."

St. 1937, c. 317, effective August 16, substituted present text for sentences added by St. 1914, c. 708, § 7, inserting provision for appointment of conservator or guardian of an employee or dependent who is a minor or insane.

Section 40. If an injured employee is mentally incompetent or is a minor when any right or privilege accrues to him, his guardian or next friend may in his behalf claim and exercise such right or privilege.

St. 1911, c. 751, Pt. II, § 14, original enactment.

Section 41. No proceedings for compensation for an injury shall be maintained unless a notice thereof shall have been given to the insurer or insured as soon as practicable after the happening thereof, and unless the claim for compensation with respect to such injury has been made within one year after its occurrence, or, in case of the death of the employee, or in the event of his physical or mental incapacity, within one year after death or removal of such incapacity, or, in case an action against a third person is discontinued as provided in Section fifteen, within thirty days after such discontinuance.

St. 1911, c. 751, Pt. II § 15, original section, read as follows:

"No proceedings for compensation for an injury shall be maintained unless a notice thereof shall have been given to the insurer of insured as soon as practicable after the happening thereof, and unless the claim for compensation with respect to such injury has been made within six months after its occurrence, or, in case of the death of the employee, or in the event of his physical or mental incapacity, within six months after death or the removal of such incapacity."

St. 1929, c. 326, § 326 2, effective August 15, added to last sentence words after "removal of such incapacity."

St. 1965, c. 487, Section 1, effective August 20, 1965, new section substituted.

Section 42. The said notice shall be in writing, and shall state in ordinary language the time, place and cause of the injury, and shall be signed by the person injured, or, in case of his death, by his legal representative, or by a person to whom payments may be due under this chapter, or by a person in behalf of any one of them. Any form of written communication signed by a person who may give the notice as above provided, containing the information that the person has been so injured, giving the time, place, and cause of the injury, shall be considred a sufficient notice.

St. 1911, c. 751, Pt. II, § 16, original section.

St. 1912, c. 172, effective February 28, added second sentence.

St. 1912, c. 571, § 3, effective May 10, added to end of first sentence words appearing after "representative."

Section 43. The notice shall be served upon the insurer or an officer or agent thereof, or upon the insured, or upon one insured person if there is more than one, or upon any officer or agent of a corporation if the insured is a corporation, by delivering it to the person on whom it is to be served, or leaving it at his residence or place of business, or, by sending it by registered mail addressed to the person on whom it is to be served,at his last known residence or place of business.

St. 1911, c. 751, Pt. II, § 17, original enactment.

Section 44. Such notice shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place or cause of the injury unless it is shown that it was the intention to mislead and that the insurer was in fact misled thereby. Want of notice shall not bar proceedings, if it be shown that the insurer, insured or agent had knowledge of the injury, or if it is found that the insurer was not prejudiced by such want of notice.

St. 1911, c. 751, Pt. II, § original section.
St. 1920, c. 223, § 1, effective June 28, want of notice not a bar "if it is found that the insurer was found not prejudiced by such want of notice."

Section 45. After an employee has received an injury, and from time to time thereafter during the continuance of his disability he shall, if requested by the insurer or insured, submit to an examination by a registered physician, furnished and paid for by the insurer or the insured. The employee may have a physician provided and paid for by himself present at the examination. If a physician provided by the employee is not present at the examination, it shall be the duty of the insurer to file with the division a copy of the report of its examining physician or physicians, if and when such report is to be used as the basis of any order by the division. If the employee refuses to submit to the examination or in any way obstructs it, his right to compensation shall be suspended, and his compensation during the period of suspension may be forfeited.

If the injured employee, at the request of the insurer or the division undergoes medical examination or treatment such employee shall be reimbursed by the insurer for reasonable travel expense incidental thereto and for any loss of wages as a result thereof in like manner as though he were disabled under the provisions of this chapter. Such payments shall not be construed as an admission of liability by the insurer in those cases where the liability had not been assumed by it. If the amount of such reimbursement is not agreed upon by the parties, it may be determined by a hearing as provided under section twelve.

St. 1911, c. 751, Pt. II, § 19, original section.
St. 1912, c. 571, § 4, effective May 10, substituted, in first sentence, words "received an injury" for "given notice of an injury."
St. 1921, c. 310, effective July 25, added third sentence, first paragraph, providing for filing of copy of report of examining physician.
St. 1951, c. 662, effective December 9, added second paragraph.
St. 1955, c. 174, § 5, effective June 13, the word "division" inserted in place of "department."

Section 46. No agreement by any employee to waive his right to compensation shall be valid.

St. 1911, c. 751, Pt. II, § 2&, original enactment.
St. 1927, c. 309, § 9, effecive July 25, added waiver provision.
St. 1941, c. 378, effective September 11, substituted words "three months after" for "one month of."
St. 1945, c. 623, effective October 15, excepted war veteran disabled as a result of his military or naval service.
St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."
St. 1973, c. 855, § 4, effective December 31, 1973, substituted present text; under prior provisions an employee could subject to written approval of Division, waive his rights to compensation if susceptible to injury.

Section 46A. If benefits have been paid or furnished under any group or nongroup policy of accident and health insurance or certificate providing for hospital, medical or dental service benefits of any hospital, medical or dental service corporation which excludes the obligation for which the employer or his insurer may be held liable under any workmen's compensation law, with

respect to a claim which is subsequently found to be compensable under this chapter, or an insurer or self-insurer subsequently makes payment with respect to such disability pursuant to this chapter, the accident and health insurer which issued said policy or the hospital, medical or dental service corporation which issued said hospital, medical or dental service benefit certificate of the employer may, at any time before an award of workmen's compensation benefits or approval of a lump sum settlement is paid, file with the division a claim for reimbursement out of the proceeds of such award or lump-sum settlement. In those instances in which such a claim is filed, said accident and health insurer or hospital, medical or dental service corporation or employer shall have a lien against the award, or lump sum, and upon satisfactory proof, the division or a member thereof shall order direct payment of the reimbursement to be made from such award of lump-sum to the employer, health or accident insurer or hospital, medical or dental service corporations who paid or furnished such benefits. In no event shall the reimbursement exceed the amount of the award or lump sum.

St. 1974, c. 812, effective October 10, new section.

Section 47. No payment shall be assignable or subject to attachment or be liable in any way for debts, except to a veteran's agent or the commissioner of veterans's services as and to the extent permitted by section five of chapter of chapter one hundred and fifteen.

St. 1911, c. 751, Pt. II, § 21, original enactment, read: "No payment shall be assignable or subject to attachment, or be liable in any way for debts."

St. 1960, c. 792, effective February 23, 1961, substituted present wording.

Section 48. Whenever the division deems it to be for the best interests of the employee or his dependents, and the parties agree, the liability for compensation may be redeemed by the payment in whole or in part by the insurer of a lump sum of an amount to be fixed by the division, not exceeding the amount provided by this chapter. The division, in the case of a minor who has received permanently disabling injuries, either partial or total, may, at any time before or after he attains his majority, provide that he be compensated in whole or in part by the payment of a lump sum, of an amount to be fixed by the division, not exceeding the amount provided by this chapter.

St. 1911, c. 751, Pt. II, § 22, original section read as follows: "Whenever any weekly payment has been continued for not less than six months, the liability therefor may in unusual cases be redeemed by the payment of a lump sum by agreement of the parties subject to the approval of the Industrial Accident Board."

St. 1914, c. 708, § 8, effective October 1, provided for such lump sum, in whole or in part, where the Board deemed it to be for the best interests of the employee or his dependents, and also provided for lump sum to minor.

St. 1927, c. 309, § 10, effective July 25, substituted present text of the first sentence.

St. 1930, c. 181, effective July 3, provided minor who has received permanently disabling injuries, either partial or total, may be compensated by lump sum at any time "before or after he attains his majority."

St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

Section 49. The claim for compensation shall be in writing, and shall state the time, place, cause and nature of the injury. It shall be signed by the person injured, or, in the event of his death, by his legal representative, or by a person to whom payments may be due, or by a person in behalf of any of them, and shall be filed with the division. A claim for compensation shall not be held valid or insufficient by reason of any inaccuracy in stating the time, place, cause or nature of the injury unless it is shown that it was the intention to mislead and that the insurer was in fact misled thereby. Failure to make a claim within the time fixed by section forty-one shall not bar proceedings under this

chapter if it is found that it was occasioned by mistake or other reasonable cause, or if it is found that the insurer was not prejudiced by the delay. In no case shall failure to make a claim bar proceedings if the insurer has executed an agreement in regard to compensation with the employee or made any payment for compensation under this chapter.

St. 1912, c. 571, § 5, original enactment.
St. 1918, c. 119, effective April 26, added third sentence re invalidity or insufficiency of claim.
St. 1920, c. 223, § 2, effective June 28, added prejudice clause to fourth sentence.
St. 1923, c. 125, effective June 11, added last sentence.
St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

Section 50. Whenever compensation is not paid within sixty days of notice to the insurer that compensation is claimed to be due an injured employee or his dependents, and there are one or more hearings on any question involving the said compensation, including appeals, and the decision is in favor of the employee or his dependents, interest at the rate of six per cent per annum from the date of the receipt of the notice of the claim by the board to the date of payment shall be paid by the insurer on all sums due as compensation to such employee or his dependents. Whenever such sums include weekly payments, interest shall be computed on each unpaid weekly payment.

St. 1914, c. 708, § 14, effective October 1, read as follows: "Whenever any question involving the compensation of an injured employee or his dependents is appealed to the supreme judicial court, and the decision is in favor of the employee or his dependents, interest to the date of payment shall be paid by the insurer on all sums due as compensation to such employee or dependents."
St. 1953, c. 670, effective October 1, 1953, inserted new section, "Whenever compensation is not paid within ninety days of notice to the insurer that compensation is claimed to be due an injured employee or his dependents, and there are one or more hearings on any question involving the said compensation, and the decision is in favor of the employee or his dependents, interest at the rate of four per cent per annum from the date such decision was first given to the date of payment shall be paid by the insurer on all sums due as compensation to such employee or dependents. Whenever such sums include weekly payments, interest shall be computed on each unpaid weekly payment."
St. 1965, c. 616, effective November 7, 1965, substituted present text.

Section 51. Whenever an employee is injured under circumstances entitling him to compensation, if it be established that the injured employee was of such age and experience when injured that, under natural conditions, his wages would be expected to increase, that fact may be considered in determining his weekly wages.

St. 1915, c. 236, effective May 10, new section.

Section 51A. In any claim in which no compensation has been paid prior to the final decision on such claim, said final decision shall take into consideration the compensation provided by statute on the date of the decision, rather than the date of the injury.

St. 1969, c. 833, effective November 25, new section; § 2, provisions applicable to injuries occuring on or after effective date.

INSURANCE COMPANIES

Section 52. Any insurance company authorized to transact business in this commonwealth under subdivision (b) or (e) of the sixth clause of section forty-seven of chapter one hundred and seventy-five may, except as provided in clause (c) of section fifty-four of said chapter, insure the payment of the compensation provided for by this chapter, and when any such company insured the payment of such compensation it shall file with the commissioner of insurance, or, if it is a member of or subscriber to a rating organization licensed under section fifty-two C, authorize such rating organization to file with said

commissioner on its behalf, its classifications of risks and premiums relating thereto and subsequent proposed classifications or premiums, which shall not take effect until approved by said commissioner as not excessive, inadequate or unfairly discriminatory for the risks to which they respectively apply. When a filing is not accompanied by the information upon which the insurer supports such filing, and said commissioner does not have sufficient information to determine whether such filing meets the requirements of this section, he may require such insurer to furnish the information upon which it supports such filing. Any filing may be supported by (1) the experience or judgement of the insurer of rating organization making the filing, (2) the experience of other insurers or rating organizations, or (3) any other factors which the insurer or rating organization deems relevant. Upon petition of the company or of any other party aggrieved the opinion of said commissioner shall be subject to review by the supreme judicial court. Said commissioner may withdraw his approval.

St. 1947, c. 619, § 1, effective January 1, 1948, substituted new section.
(Previous legislation: 1911, 751, V, § 3; 1912, 571, § 17; 1912, 666, § 1; 1925, 267, § 14; 1927, 284, § 15; 1927, 309, § 11.)

Section 52A. (Repealed St. 1957, c. 301, effective July 21.)

St. 1939, c. 465, § § 2, 4, effective August 12 (but not applicable to cases where last exposure was prior to effective date hereof), new section, formerly read as follows:

No insurance company shall be authorized nor continue to transact business in this commonwealth under subdivision (e) of clause sixth of section forty-seven of chapter one hundred and seventy-five unless and until it shall file with the commissioner of insurance an agreement in writing that it will submit in its classifications of risks and premiums for the approval of the commissioner under the preceding section a proposed premium for insurance for the benefits provided by sections seventy-six to eighty-five, inclusive, which premium, for the first year in which it is to apply, shall not be in excess of six per cent of the pay roll of an employer in the granite industry entitled to such insurance, whose employees are exposed to the hazards of silicosis or other occupational pulmonary dust disease and for whom limited benefits are provided by sections seventy-six to eighty-five, inclusive.

Section 52B. All premiums and interest charges on account of policies insuring the payment of the compensation provided for by this chapter which may be due from an employer to any insurance company authorized to transact the business of workmen's compensation insurance in this commonwealth shall be entitled to priority or preference over claims not otherwise preferred by law in bankruptcy involving such employer.

St. 1945, c. 581, effective October 8, new section.

Section 52C. (a) A corporation, an unincorporated association, a partnership, or an individual, located within this commonwealth may make application to the commissioner of insurance, hereinafter and in sections fifty-two D to fifty-two F, inclusive, called the commissioner, for license as a rating organization and shall file therewith (1) a copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its by-laws, rules and regulations governing the conduct of its business, (2) a list of its members and subscribers, (3) the name and address of a resident of this commonwealth upon whom notices or orders of the commissioner or process affecting such rating organization may be served and (4) a statement of its qualifications as a rating organization. If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license authorizing it to act as a rating organization. Every such application shall be granted or

denied in whole or in part by the commissioner within sixty days of the date of its filing with him. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the commissioner. The fee for said license shall be twenty-five dollars. Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon due notice, in the event the rating organization ceases to meet the requirements of this section. Every rating organization shall notify the commissioner promptly of every change in (1) its constitution, its articles of agreement or association or its certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business, (2) its list of members and subscribers and (3) the name and address of the resident of this commonwealth designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

(b) Subject to the rules and regulation which have been approved by the commissioner as reasonable, each rating organization shall permit any insurer not a member to be a subscriber to its rating services. Notice of proposed changes in such rules and regulations shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall at the request of any subscribers or any such insurer, be reviewed by the commissioner at a hearing held upon at least ten days' written notice to such rating organization and to such subscriber or insurer. If the commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within thirty days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If the commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

(c) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(d) Co-operation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this chapter is hereby authorized, provided the filings resulting from such co-operation are subject to all the provisions of this chapter which are applicable to filings generally. The commissioner may review such co-operative activities and practices and if, after due notice and a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with this section, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with this section, and requiring the discontinuance of such activity or practice.

(e) The commissioner shall, at least once in five years, make or cause to be made an examination of each rating organization licensed in this commonwealth as provided in this section. The reasonable cost of any such examination shall be paid by the rating organization examined upon presentation to it of a detailed account of such costs. The officers, manager, agents and employees of such rating organiztion may be examined at any time under oath and shall exhibit all books, records, accounts, documents or agreements governing its method of operation.

The commissioner shall furnish two copies of the examination report to the organization, group or association examined and shall notify such organization, group or association that it may, within twenty days thereafter, request a hearing on said report or on any facts or recommendations therein. Before filing any such report for public inspection, the commissioner shall grant a hearing to the organization, group or association examined. the commissioner may withhold the report of any such examination from public inspection for such time as he may deem proper.

(f) All rates shall be made in accordance with the following provisions:—(1) Due consideration shall be given to past and prospective loss experience within and outside this commonwealth, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, and to past and prospective expenses both countrywide and those specially applicable to this commonwealth, and to all other relevant factors within and outside this commonwealth; (2) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or group of insurers to reflect the requirements of the operating methods of any such insurer or group of insurers.

(g) Nothing in this chapter shall abridge or restrict the freedom of contract between insurers and agents or brokers, or between agents and brokers, nor affect the customary right of insurers, agents or brokers to pay to or receive from each other, commission or brokerage; nor shall it abridge or restrict the freedom of contract between insurers, agents or brokers and their employees with respect to compensation.

St. 1947, c. 619, § 2, effective January 1, 1948, new section.

Section 52D. Any member of or subscriber to a rating organization may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the commissioner shall, after a hearing upon not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order. In deciding such appeal the commissioner of insurance shall apply the standards set forth in section fifty-two.

Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate. Every rating organization and every insurer which makes its own rates shall provide within the commonwealth reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such raing system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organ-

ization or such insurer on such request may, within thirty days after written notice of such action, appeal to the commissioner, who, after a hearing held upon not less han ten days' written notice to the appeilant and to such rating organization or insurer, may affirm or reverse such action.

St. 1947, c. 619, § 2, effective January 1, 1948, new section.
St. 1962, c. 342, effective July 12, 1962, amended by adding second paragraph.

Section 52E. Any person or organization wilfully violating any provision of sections fifty-two, fifty-two C or fifty-two D shall be punished by a fine of not more than five hundred dollars for each such violation. Such penalty may be in addition to any other penalty provided by law. The commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired, or, if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of license shall become effective and such suspension shall remain in effect for a period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed. No license shall be suspended or revoked except upon a written order of the commissioner, stating his findings, made after a hearing held upon not less than ten days' written notice to such organization specifying the alleged violation.

St. 1947, c. 619, § 2, effective January 1, 1948, new section.

Section 52F. (a) Any insurer or rating organization aggrieved by any order or decision of the commissioner made without a hearing may, within thirty days after notice of the order to the insurer or organization, make written request to the commissioner for a hearing thereon. The commissioner shall hear such party or parties within thirty days after receipt of such request and shall give not less than fifteen days' written notice of the time and place of the hearing. Within thirty days after such hearing the commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefor. Pending such hearing and decision thereon the commissioner may suspend or postpone the effective date of his previous action.

(b) Nothing contained in sections fifty-two C to fifty-two F, inclusive, shall require the observance at any hearing held under authority thereof of formal rules of pleading or evidence.

(c) Any order or decision of the commissioner under authority of said sections shall be subject to review, which shall be on the basis of the record of the proceedings before the commissioner, by appeal to the supreme judicial court at the instance of any party in interest. The order or decision of the commissioner shall be reviewed in accordance with the standards for review provided in paragraph (8) of section fourteen of chapter thirty A.

The court shall determine whether the filing of the appeal shall operate as a stay of any such order or decision of the commissioner. The court may, in disposing of the issue before it, modify, affirm or reverse the order or decision of the commissioner in whole or in part.

St. 1947, c. 619, § 2, effective January 1, 1948, new section.
St. 1954, c. 681, § 15, amended paragraph (c) by striking out after word commissioner in first sentence "and shall not be limited to questions of law" and by adding second sentence.

Section 52G. If any section, subsection, subdivision, paragraph, sentence or clause of said sections fifty-two C to fifty-two F, inclusive, is held invalid or unconstitutional, such decision shall not affect the remaining portions of said

sections.

St. 1947, c. 619, § 2, effective January 1, 1948, new section.

Section 53. Any mutual liability insurance company authorized to do business in this commonwealth may with the approval of the commissioner of insurance distribute its risks into groups in accordance with the nature of the business and the degree of the liability of injury and with like approval fix by and for such groups in accordance with the experience of each group all premiums, assessents and dividends; but all the funds of the company both actual and contingent shall be available for the payment of any claim against the company.

St. 1911, c. 751, Pt. IV, § § 13, 16, 17, original enactment.
St. 1916, c. 200, § 1, effective May 12.

Section 54. (Repealed, St. 1923, c. 139, effective June 19).

Section 54A. Every contract or agreement the purpose of which is to insure an employer in whole or in part against liability on account of injury or death of an employee, other than seasonal or casual farm laborers, and seasonal or casual or part-time domestic servants who work in the employ of the employer less than sixteen hours a week for whom insurance under this chapter remains elective, shall be void unless it also insures the payment of the compensation provided for by this chapter. The second paragraph of section fifty-five shall not apply in case of a contract or agreement made void by this section.

St. 1935, c. 425, effective October 14, new section, which read as follows: Every contract or agreement the purpose of which is to insure an employer in whole or in part against liability on account of injury or death of an employee, other than a domestic servant or a farm laborer, shall be void unless it also insures the payment of the compensation provided for by this chapter. Nothing in this section shall affect any such contract or agreement made with an employer of less than six persons. The second paragraph of section fifty-five shall not apply in case of a contract or agreement made void by this section.

St. 1957, c. 275, effective July 8, substituted present wording, making provisions consistent with section one, paragraph (4).

St. 1972, c. 374, effective September 3, deleted second sentence, § 3, applicable to insurance contracts entered into on or after effective date.

Section 55. No policy of workmen's compensation insurance shall be issued or delivered until a copy thereof has been filed with the commissioner of insurance at least thirty days prior to such issue or delivery, unless before the expiration of the thirty days the said commissioner shall have approved the form of the policy in writing, nor if the commissioner notifies the company in writing that in his opinion the form of said policy does not comply with the laws of the commonwealth, specifying the reasons for his opinion; provided, that upon petition of the company the opinion of the commissioner shall be subject to review by the supreme judicial court.

Any policy of insurance issued in violation of this section or of any other provision of this chapter shall nevertheless be valid and binding upon the company issuing it, and the rights and obligations of the parties thereto shall be determined by this chapter and chapter one hundred and seventy-five.

St. 1915, c. 287, § 2, effective July 1, workmen's compensation policies subject to approval of insurance commissioner.
St. 1923, c. 139, § 2, effective June 19, inserted words "workmen's compensation."
St. 1934, c. 137, § 1, effective July 5, revised last paragraph.

Section 56. Two or more insurance companies authorized to issue such insurance policies in the commonwealth may unite in issuing joint and several workmen's compensation policies which may be headed by the names of all such companies. Such policies shall be subject to approval by the commissioner of insurance.

St. 1918, c. 216.

Section 57. The commissioner of insurance may, whenever he deems it expedient, by a written order in such form as he may prescribe, require a domestic insurance company to deposit with the state treasurer the present value, as computed by him under section fifty-eight, of all or any part of its outstanding claims incurred under its contracts or policies providing for the payment of benefits under this chapter, in cash or in securities approved by the said commissioner, and he may, whenever he deems it expedient, require the company, as aforesaid, to make an additional deposit. The order shall specify the amount to be deposited and the time within which the deposit shall be made, which shall be not less than three days from the date on which the company receives the said order. A duplicate or copy of any such order shall be forthwith filed by the said commissioner with the state treasurer and the division, and the state treasurer, upon the expiration of the time specified in said order, shall forthwith notify the commissioner in writing whether or not the company has made the deposit in accordance therewith.

St. 1919, c. 226, § 1, effective July 11, original section, read as follows:

"The commissioner of insurance in his discretion may at any time require an insurance company to deposit in cash or approved securities with the state treasurer the present value as computed by him of all or in part of its outstanding claims incurred under the provisions of this chapter. The state treasurer shall make from such deposit the payments to those entitled thereto under this chapter and as provided therein, upon the written request and under the direction of the department, or may, if the company so elects, transfer from time to time to a trustee appointed by the company and approved by the department any part of the funds reasonably necessary for making the said payments promptly, and the trustee shall make the same in accordance with the instruction of the department. The state treasurer shall keep a separate account with the company of the amount so received, the amount of interest earned and the payments made. In case the amounts so deposited prove or seem likely to prove to be insufficient from transfer of funds or otherwise, the commissioner may require the company to deposit such additional sums as he may deem necessary. If the amounts deposited prove to be larger than required, portions thereof may from time to time be refunded to the company by the state treasurer, subject to the approval of the department and the commissioner. If any balance remains after payment of all sums due to injured workmen of their dependents, the state treasurer shall return the balance to the company upon notice from the department that there is no likelihood of further payments becoming due on account of the said claims."

NOTE: St. 1928, c. 171, § 3, amending G. L. c. 175, § 46a, provides that when any domestic company becomes insolvent, or is unable to pay in full its liabilities, unpaid losses under workmen's compensation policies shall be preferred over all claims except debts due the United States and debts or taxes due the commonwealth or any city or town thereof.

St. 1930, c. 139, § 1, effective June 17, substituted present text.

St. 1955, c. 174, § 5, effective June 13, the word "division" inserted in place of "department."

Section 58. The commissioner of insurance shall compute the present value of outstanding claims on the basis of information furnished by the division and shall assume a rate of interest not higher than four per cent.

St. 1919, c. 226, § 2, original enactment.

St. 1955, c. 174, § 5, effective June 13, the word "division" inserted in place of "department."

Section 59. The state treasurer shall hold any deposit made under section fifty-seven in trust for the payment of claims for benefits under this chapter, including claims accruing after the deposit was made, and he shall make such payments upon the written request and under the direction of the division or he may, if the company so requests in writing, transfer from time to time to a trustee appointed by the company and approved by the division any part of any such deposit made with him, reasonably necessary for the prompt payments of said benefits, and the trustee shall make such payments in accordance with the written directions of the division.

The state treasurer shall keep a separate account with the company of the amount so received, the amount of interest earned thereon and the payments made. If the amount deposited proves to be larger than required, portions

thereof may, from time to time, be refunded to the company by the state treasurer or by such trustee, if any, subject to the written approval of the commissioner of insurance and the division. If any balance remains after the payment of all benefits due to claimants under this chapter, the state treasurer or such trustee, if any, shall return the balance to the company upon written notice from the division that there is no likelihood of further paymens becoming due on account of such claims.

St. 1919, c. 226, § 1, original section, read:
"When a deposit is made with the state treasurer under section fifty-seven, the company shall pay to him a reasonable amount for the expenses of his office, for the custody and disbursements of the deposit."
St. 1930, c. 129, § 2, effective June 17, substituted present text.
St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

Section 60. The appointment of a receiver of a domestic company under section six of chapter one hundred and seventy-five shall not affect any order of the said commissioner or deposit made under section fifty-seven prior to such appointment, and the state treasurer or trustee appointed and approved as provided in section fifty-nine shall retain any deposit made with him as provided in section fifty-seven or fifty-nine and make the payments therefrom as provided in section fifty-nine. If a receiver is so appointed prior to compliance by the company with any such order, he shall, as soon as may be after his appointment, make the deposit required by said order, if the assets of the company in his hands are sufficient therefor.

St. 1930, c. 129, § 2, effective June 17, substituted present text.
This section originally read as follows:
"An insurance company failing to make a deposit when required under section fifty-seven shall not write policies of workmen's compensation insurance in the commonwealth until such deposit is made."

Section 60A. Any company aggrieved by any order of the said commissioner made under section fifty-seven may, within five days from the date of its receipt, file a petition in the supreme judicial court for the county of Suffolk for a review thereof; but the filing of such a petition shall not suspend the operation of the order. The court shall summarily hear the petition and may make any appropriate order or decree. If the court shall order or decree that the amount of the deposit be reduced, the state treasurer or such trustee, if any, shall return to the company so much of the deposit as exceeds the amount fixed by the order or decree, or, if the company has not complied with the order of the said commissioner, it shall forthwith deposit with the state treasurer the amount so fixed.

St. 1930, c. 129, § 2, effective June 17, new section.

Section 60B. A company making a deposit under section fifty-seven shall pay to the state treasurer a reasonable amount for the expenses of his office, attributable to the custody and disbursement of the deposit. Any such amount may, upon written application of the state treasurer, and, after written notice to the company and a hearing, be determined by the commissioner of insurance, and, with the written approval of the said commissioner, be deducted from any funds of the company on deposit with the state treasurer.

St. 1919, c. 226, § 3, originally § 59.
St. 1930, c. 129, § 2, effective June 17, new section.

Section 60C. Failure of a company to comply with any lawful order of the commissioner of insurance under section fifty-seven shall, without any further action by the said commissioner, terminate its authority to issue policies of workmen's compensation insurance, and in such case the company shall issue

no such policies thereunder until it complies with such order and has received from said commissioner, as evidence of such compliance, a special certificate authorizing it to resume the issue of such policies. The commissioner may, in his discretion, refuse to issue such a certificate.

St. 1919, c. 226, § 4, originally § 60.
St. 1930, c. 129, § 2, effective June 17, new section.

Section 60D. Any company failing to comply with any lawful order of the commissioner under section fifty-seven shall, in addition, forfeit one hundred dollars for each day of its default. Any forfeiture recovered under this section shall be paid to the state treasurer and shall be held and expended by him in like manner as a deposit made under said section fifty-seven. Any company issuing any policy of workmen's compensation insurance while in default of such compliance shall be punished by a fine of not less than one hundred nor more than one thousand dollars, and any officer or agent thereof issuing any such policy on the company's behalf during such default shall be punished by such fine or by imprisonment for not more than three months, or both.

The supreme judicial court for the county of Suffolk shall have jurisdiction in equity, upon an information filed by the attorney general at the request of commissioner of insurance, to enforce compliance with any order of the commissioner made under section fifty-seven, and the payment of any fine, forfeiture or penalty prescribed by this section.

St. 1930, c. 129, § 2, effective June 17, new section.

Section 61. Every foreign insurance company transacting the business of workmen's compensation insurance in the commonwealth shall furnish a bond running to the commonwealth, with some surety company authorized to transact business in the commonwealth as surety, for such term and such amount and in such form as may be approved by the commissioner of insurance, the bond being conditioned upon the making of the deposits required by the following section. The annual license of such a company shall not be issued or renewed until it has filed with the commissioner a bond as aforesaid covering a future period at least as long as that covered by the license. In place of a bond as aforesaid the company may furnish other security, upon a like condition, satisfactory to the commissioner.

St. 1915, c. 183, § 2. St. 1916, c. 29.

Section 62. Every such foreign insurance company shall, within five days after its withdrawal from the transaction of business in the commonwealth or after the revocation of its license issued by the commissioner of insurance or of his refusal to renew it, deposit with a trustee to be named by the division an amount equal to twenty-five per cent of its obligations incurred or to be incurred under workmen's compensation policies issued to employers in the commonwealth; and within thirty days after such withdrawal, revocation of or refusal to renew a license, such company shall deposit with said trustee an amount equal to the remainder of such obligations incurred or to be incurred, the amount of which obligations shall be determined by the division. The amounts so deposited shall be available for the payment of the said obligations of the company to the same extent as if the company had continued to transact business in the commonwealth, and the trustee so receiving said deposit shall pay such obligations at the times and in a manner satisfactory to the division.

St. 1915, c. 183, § original enactment.
St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."

Section 63. Insurance companies insuring employees under this chapter

shall, at the request of the division, furnish it in writing any information required in connection with the administration by said division of this chapter, including any statistics and the names of all employers insured by them. Notice of issuance of a policy of insurance insuring employers under this chapter shall be given to the division of industrial accidents by the company issuing such policy within five days after the date of issuance thereof. No further notice need be filed in case such insurance is renewed, extended or otherwise continued by such company. Such insurance shall not be cancelled or shall not be otherwise terminated until ten days after written notice of such cancellation or termination is given to the division or until a notice has been received by said division that the employer has secured insurance from another insurance company or has otherwise insured the payment of compensation provided for by this chapter.

St. 1914, c. 708, § 15, original enactment.
St. 1953, c. 314, § 6, effective May 1, the word "division" inserted in place of "department."
St. 1973, c. 403, effective September 11, added last three sentences.

Section 64. The insurer shall make and enforce reasonable rules and regulations for the prevention of injuries on the premises of insured persons, and for this purpose inspectors of the insurer shall have free access to all such premises during regular working hours. Insured persons or employees thereof aggrieved by such rules or regulations may petition the department of labor and industries for a review, and it may affirm, amend or annul the rule or regulation.

St. 1911, c. 751, Pt. IV, § 18. St. 1919, c. 350, § 69.

Section 65. For every case of personal injury resulting in death covered by this chapter, the insurer or self-insurer shall pay into the state treasury five hundred dollars, such payment to be made in all cases regardless of whether the employee's dependents or personal representatives commence action against a third party under section fifteen. For every case of personal injury resulting in death covered by this chapter when there are no dependents the insurer or self-insurer shall pay into the state treasury an additional five hundred dollars. Payments under this section shall constitute a special fund in the custody of the state treasurer, who shall make payments therefrom upon the written order of the division for the purposes set forth in section thirty-seven and thirty-seven A and for the purpose of paying the expense of printing the necessary records, papers and briefs in certain appeals to the supreme judicial court as provided in section eleven. Payments made under section thirty-seven A shall have priority over any other payments made under this section.

As soon as practicable after June thirtieth of any year in which payments made from the fund established by this section exceed deposits therein, the chairman of the industrial accident board shall assess upon and collect from each insurance carrier and each self-insurer a sum equal to that proportion of the excess of disbursements over receipts during such year which the total compensation payments of such carrier or self-insurer bore to the total compensation payments made by all carriers and self-insurers during such year.

The reasonable expense of prosecution or defense, if any, by the attorney general of claims for deposit under this section, or against claims for reimbursement under sections thirty-seven and thirty-seven A, shall, subject to the approval of the division, be payable out of the special fund established hereunder.

St. 1919, c. 272, effective September 29, original section.
St. 1935, c. 395, effective October 1, increased deposit from one hundred dollars to two hundred and fifty dollars.
St. 1936, c. 162, effective June 21, increased deposit to five hundred dollars.
St. 1937, c. 394, effective August 26, increased deposit to one thousand dollars.

St. 1939, c. 465, § 3, effective August 12, excepted cases of death from "silicosis or other occupational pulmonary dust disease." Word "insurer" substituted for "insurance company."

St. 1943, c. 367, effective August 26, reduced deposit to five hundred dollars and provided for payment of expense of prosecution.

St. 1950, c. 634, § 2, effective July 14, in second sentence provided for payment of expense of printing, etc., in certain appeals to supreme judicial court.

St. 1955, c. 174, § 5, effective June 13, the word "division" inserted in section in place of word "department."

St. 1955, c. 234, § 2, effective June 30, struck out in first sentence after word "chapter" the words, "except silicosis or other occupational pulmonary dust disease".

St. 1967, c. 513, effective October 31, added last sentence providing that expense of prosecution for deposit or defense be paid from special fund.

St. 1973, c. 855, effective December 31, substituted present text.

Related Laws St. 1963, c. 554, effective July 22, 1963, provided:

"Notwithstanding the provisions of section sixty-five N of chapter one hundred and fifty-two of the General Laws, payments made by insurers or self-insurers under the provisions of said section sixty-five N shall, for the period commencing with the effective date of this act and ending on December thirty-first, nineteen hundred and sixty-four, be credited to the special fund established under the provisions of section sixty-five of said chapter one hundred and fifty-two and used for the purposes and under the conditions set forth in said section sixty-five."

Related Laws St. 1965, c. 642, effective August 17, 1965, provided:

"Notwithstanding the provisions of section sixty-five N of chapter one hundred and fifty-two of the General Laws, payments made by insurers or self-insurers under the provisions of said section sixty-five N shall, for the period commencing with the effective date of this act and ending on June thirtieth, nineteen hundred and sixty-six, be credited to the special fund established under the provisions of section sixty-five of said chapter one hundred and fifty-two and used for the purposes and under the conditions set forth in said section sixty-five."

ASSIGNMENT OF REJECTED RISKS AND POOLING

Section 65A. Any employer whose application for workmen's compensation insurance has been rejected or not accepted within five days by two insurers may appeal to the division and if it shall appear that such employer has complied with or will comply substantially with all laws, orders, rules and regulations in force and effect relating to the welface, health and safety of his employees, and shall not be in default of payment of any premium for such insurance, then the division shall certify to the commissioner of insurance that such employer is entitled to workmen's compensation insurance. The commissioner of insurance shall thereupon designate an insurer who shall forthwith, upon the receipt of the payment for the premium therefor, issue to such employer a policy of insurance contracting to pay the compensation provided for by this chapter. The commissioner of insurance shall make equitable distribution of such risks among insurers in such manner that, so far as practicable, no insurer will be assigned a larger proportion of premiums under assigned policies during any calendar year than that which the total of workmen's compensation premiums written in the commonwealth by such insurer during the previous calendar year bears to the total workmen's compensation premiums written in the commonwealth by all insurers during the previous calendar year.

St. 1939, c. 489, effective November 10, new section.

St. 1953, c. 314, §6, effective May 1, the word "division" inserted in place of "department."

Section 65B. If, after the issuance of a policy under section sixty-five A, it shall appear that the employer to whom the policy was issued is not or has ceased to be entitled to such insurance, the insurer, with the approval of the division, may cancel such policy in the manner provided in this chapter; provided, that any insurer desiring to cancel such a policy shall give notice in writing to the division and the insured of its desire to cancel the same. The division may approve such cancellation unless the employer shall within ten days after the receipt of such notice file with the division objections thereto, and, if such

objections are filed, a member of the division shall hear and decide the case within a reasonable time thereafter, subjct to review as provided where a claim for review referred to in section eight is filed.

St. 1939, c. 489, effective November 10, original enactment.
St. 1953, c. 314, §6, effective May 1, the word "division" inserted in place of "department."

Section 65C. All losses incurred under policies issued to employers under section sixty-five A shall be equitably distributed as herein provided among all insurers authorized to transact and transacting workmen's compensation insurance in the commonwealth. Such distributions of losses shall be effected through two separate reinsurance pools; one constituted by and comprised of all insurers operating as non-stock companies, herein called the "non-stock pool", and the other constituted by and comprised of all insurers operating as stock companies, herein called the "stock pool". All losses incurred by members of the non-stock pool shall be equitably distributed amont all the insurers which are members of such pool, and all losses incurred by members of the stock pool shall be equitably distributed among all insurers which are members of such pool. The non-stock pool shall distribute all losses incurred by its members during each calendar year under policies issued to employers pursuant to any provision of sections sixty-five A to sixty-five M, inclusive, in such a manner that no member shall be required to pay a larger proportion of such losses than the volume of all workmen's compensation insurance premiums written by such member in the commonwealth during the previous calendar year bears to the total volume of such insurance premiums written in the commonwealth by all members of the non-stock pool during such previous calendar year. The stock pool shall distribute all losses incurred by its members during each calendar year under such policies in such a menner that no member shall be required to pay a larger proportion of such losses than the volume of all such insurance premiums written by such member in the commonwealth during the previous calendar year bears to the total volume of such insurance premiums written in the commonwealth by all members of the stock pool during such previous calendar year. The words "premiums written", as used in this section, shall mean gross premiums charged on all policies less all premiums returned to policy holders except dividends or savings refunded under participating policies. No insurer shall be authorized to write or to continue to write compensation insurance in this commonwealth unless such insurer is a member of the pool herein designated for such insurer.

St. 1939, c. 489, effective November 10, new section.

Section 65D. By arrangement between insurers which are members of the same pool and all other members of such pool, and with the approval of the commissioner of insurance, an insurer referred to in section sixty-five C may issue a policy to an employer who had been assigned by said commissioner to another insurer, and such issuance of a policy shall constitute a compliance with and be subject to section sixty-five A and shall not affect the allotment to the respective insurers of assignment thereafter to be made by the commissioner of insurance.

St. 1939, c. 489, effective November 10, new section.

Section 65E. Any employer whose insurance has been assigned under section sixty-five A, if such insurance is later reassigned under said section, shall be assigned to an insurer which is a member of the same pool as the previously assigned insurer.

St. 1939, c. 489, effective November 10, new section.

Section 65F. At the termination of any workmen's compensation insurance policy issued to an employer whose insurance has been assigned to an insurer under section sixty-five A, any insurer may voluntarily provide such insurance for such employer on its own behalf, but such insurer shall pay into the pool by which such policy or policies of such employer were reinsured an amount equal to any excess of losses incurred over the premiums collected on account of such policy or policies during the entire period of insurance as an assigned employer. Nothing is this section shall be construed to permit an insurer which voluntarily provides insurance hereunder to avoid the payment of a service fee to a broker or agent designated in accordance with section sixty-five O based upon coverages issued to employer assisted by such broker or agent, or any renewal or reissue thereof.

St. 1939, c. 489, effective November 10, new section.
St. 1974, c. 761, § 2, effective November 10, added last sentence.

Section 65G. The words "losses incurred", as used in sections sixty-five C and sixty-five F, shall mean, with respect to each policy, the losses paid and estimated to be paid thereunder. Any dispute as to the amounts to be paid under sections sixty-five C and sixty-five F shall be resolved by the commissioner of insurance upon hearing after reasonable notice to all interested parties.

St. 1939, c. 489, effective November 10, new section.

Section 65H. Each reinsurance pool shall adopt, and may alter and amend, rules and regulations not inconsistent with law, which rules and regulations shall be submitted for approval to the commissioner of insurance and shall be binding upon all member of such pool when approved by said commissioner. Provision may be made under such rules and regulations for the subsequent adjustment of payments originally made on behalf of assigned risks on the basis of estimated losses incurred.

St. 1939, c. 489, effective November 10, new section.

Sections 65I. Nothing in sections sixty-five A to sixty-five M, inclusive, shall be construed to affect, in any way, the primary liability of the insurer to which the risk is assigned to pay compensation benefits in accordance with the provisions of this chapter.

St. 1939, c. 489, effective November 10, new section.

Section 65J. At any time while a policy issued pursuant to section sixty-five A is in force, the insurer, upon its own initiative, may make a careful inspection of the risk for the purpose of measuring the hazards, making recommendations for the health and safety of employees, and determining the rate or rates which will be adequate and reasonable for its insurance. Every such inspection shall be made and reported in accordance with such rules as the department of labor and industries may prescribe.

St. 1939, c. 489, effective November 10, new section.

Section 65K. Any employer to whom a policy is issued pursuant to section sixty-five A may appeal, within sixty days after the effective date of such policy, to the commissioner of insurance on the ground that the premium charged upon such policy is not reasonable or is unfairly discriminatory, and said commissioner may, in his discretion after a hearing of which all interested parties shall have reasonable notice, approve or disapprove the premium charged. In the event the premium charged is disapproved by said commissioner, he shall direct the insurer to which the employer was assigned to issue a policy or to adjust the premium thereof at a rate or rates found by the commissioner of in-

surance to be adequate, reasonable and not unfairly discriminatory, and the rate or rates so determined shall be effective as of the date of the policy, and be binding upon both the insurer and the employer.

St. 1939, c. 489, effective November 10, new section.

Section 65L. If an insurer refuses or neglects to comply with any provision of sections sixty-five A to sixty-five K, inclusive, or with any lawful order or ruling made by the commissioner of insurance pursuant thereto, he shall issue an order to such insurer to show cause why it should not be proceeded against as hereinafter provided, and after due notice and a hearing shall make a finding thereon or order such insurer forthwith to comply. If the insurer is found by the commissioner of insurance to have refused or neglected to comply with any provision of sections sixty-five A to sixty-five K, inclusive, or with any lawful order or ruling made thereunder by the commissioner of insurance, he shall, in the case of a foreign company, revoke or suspend the license issued to it under section one hundred and fifty-one of chapter one hundred and seventy-five and the licenses issued to all of its agents under section one hundred and sixty-three of said chapter as provided, in and subject to all the provisions of section five of said chapter, until it shall comply with such order or ruling, and, in case of a domestic company, he shall apply to the supreme judicial court for an injunction and such court shall have jurisdiction to restrain such company from further transaction of its business until it shall comply with such order or ruling.

St. 1939, c. 489, effective November 10, new section.

Section 65M. Any employer or insurer aggrieved by any order or ruling of the division or of the commissioner of insurance under any provisions of sections sixty-five A to sixty-five L, inclusive, may, within thirty days after notice thereof, and despite any different limitation of time for filing petitions contained in section five of chapter one hundred and seventy-five, file a petition in the superior court for a review thereof; but the filing of such a petition shall not suspend such order or ruling unless a stay thereof shall be allowed by a justice of said court pending the final determination of the review. The court shall summarily hear the petition and make any appropriate order or decree.

St. 1939, c. 489, effective November 10, new section.
St. 1953, c. 314, §6, effective May 1, the word "division" inserted in place of "department."

Section 65N. (Repealed, 1973, c. 855 §6, effective December 31)

St. 1945, c. 623, § 3, effective October 15, new section.
St. 1949, c. 689, effective November 14, increased payment from two hundred and fifty dollars to five hundred dollars.
St. 1955, c. 174, § 5, effective June 13, the word "division" inserted in place of "department."

Section 65O. Any employer to whom an insurer is assigned under the provisions of section sixty-five A shall be entitled to designate any licensed insurance agent or insurance broker to assist him in dealing with said insurer to which he is assigned and with the reinsurance pool described in section sixty-five C. The said agent or broker shall be entitled to a service fee from the premium for such coverages issued to such employer from the insurer pursuant to section sixty-five A or section sixty-five D at a rate set by the commissioner from time to time, at such percentage of the average commission rate customarily paid by insurance companies which compensate agents by commissions. The commissioner shall set the service fee at a rate he finds sufficiently attractive to encourage agents and brokers to assist such employers to obtain and maintain coverage while at the same time leaving a further incentive to such agents or brokers to place such insurance through their customary markets when that is

practicable. The service fees authorized by this section shall be paid on original issue of coverage and on each renewal or reissue thereof.

St. 1974, c. 761, § 1, effective November 10, new section.

MISCELLANEOUS PROVISIONS

Section 66. In an action to recover damages for personal injury or consequential damages sustained within or without the commonwealth by an employee in the course of his employment or for death resulting from personal injury so sustained it shall not be a defense:

1. That the employee was negligent;
2. That the injury was caused by the negligence of a fellow employee;
3. That the employee had assumed voluntarily or contractually the risk of the injury;
4. That the employee's injury did not result from negligence or other fault of the employer, if such injury arose out of and in the course of employment.

St. 1911, c. 751, Pt. I, § 1, original enactment.

St. 1943, c. 529, § 9A, effective November 15, added fourth defense and the words, "voluntarily or contractually" to third defense.

St. 1959, c. 478, effective November 15, in first paragraph added words "within or without the commonwealth."

St. 1971, c. 700, effective October 15, insered words, "or consenquential damages".

Section 67. Section sixty-six shall not apply to actions to recover damages for personal injuries received by employees of an insured person or a self-insurer.

Paragraph 4 of said section sixty-six shall not apply to actions to recover damages for personal injuries sustained by any person, whose employer has a right of election as provided in paragraph 4 of section one.

St. 1911, c. 751, Pt. I, § § 2, 3, original enactment.

St. 1943, c. 529, § 10, effective November 15, added words "or a self-insurer" at end of first sentence and also added second paragraph.

St. 1953, c. 656, § 2, effective October 1, struck out words "sustained by domestic servants and farm laborers, nor to actions for such injuries" which follow words "personal injuries" in second line of first sentence.

Section 68. Chapter one hundred and fifty-three and sections two B and six C to six F, inclusive, of chapter two hundred and twenty-nine shall not apply to employees of an insured person or a self-insurer, nor to laborers, workmen or mechanics employed by the commonwealth or any county, city, town or district subject to sections sixty-nine to seventy-five, inclusive, who are entitled to the benefits provided by said sections, which this chapter is applicable thereto.

St. 1911, c. 751, Pt. I, § 4, original section.

St. 1913, c. 807, § 4, effective as to commonwealth on September 14, and upon date of acceptance by the several counties, cities, towns and districts of the commonwealth, provided for payment of compensation to laborers, workmen and mechanics.

St. 1943, c. 529, § 11, effective November 15, added words "or a self-insurer" and "the commonwealth or", and substituted phrase "who are entitled to the benefits provided by said sections, while this chapter is applicable thereto" for "while this chapter is in effect."

St. 1947, c. 506, effective August 25, made perfecting changes in section numbers.

St. 1949, c. 427, § § 8, 11, effective January 1, 1950, made perfecting changes in section numbers.

Section 69. The commonwealth and any county, city, town or district having the power of taxation which has accepted chapter eight hundred and seven of the acts of nineteen hundred and thirteen, and any town or district having the power of taxation which accepts the provisions of this section at an annual meeting or at any special meeting called for the purpose, and any county tuberculosis hospital district under sections seventy-eight to ninety,

inclusive, of chapter one hundred and eleven, if the trustees of said district accept the provisions of this section and any regional school district which accepts this section by vote of its regional district school committee, shall pay to laborers, workmen, mechanics and nurses employed by it who receive injuries arising out of and in the course of their employment, or, in case of death resulting from such injury, to the persons entitled thereto, the compensation provided by this chapter. Compensation payable under this chapter to an injured employee of the commonwealth or of any such county, city, town or district who receives full maintenance in addition to his cash salary or wage and compensation payable thereunder to his dependents in case of his death, shall be based upon his average weekly wages plus the sum of thirty dollars a week in lieu of the full maintenance received by him; provided, that, in the discretion of the superintendent or other person in charge or control of any institution where such an employee is employed, such maintenance, computed at the rate per week hereinbefore set forth, may be continued during total incapacity, in which event such weekly compensation shall be based solely upon the cash salary or wages of such employee. No cash salary or wages shall be paid by the commonwealth or any such county, city, town or district to any person for any period for which weekly total incapacity compensation under this chapter is payable, except that such salary or wages may be paid in full until any overtime or vacation which the said employee has to his credit has been used, without deduction of any compensation herein provided for which may be due or become due the said employee during the period in which said employee may be totally incapacitated, and except that such salary or wages may be paid in part until any sick leave allowance which the employee has to his credit has been used, any other provisions of law notwithstanding. An employee who is entitled to any sick leave allowance may take such of his sick leave allowance payment as, when added to the amount of any disability compensation herein provided, will result in the payment to him of his full salary or wages. Sections seventy to seventy-five, inclusive, shall apply to the commonwealth and to any county, city, town or district having the power of taxation which has accepted said chapter eight hundred and seven, and to any town or district having the power of taxation which accepts the provisions of this section as hereinbefore provided, and to any county tuberculosis hospital district under said sections seventy-eight to ninety, inclusive, if the trustees of said district accept the provisions of this section. The terms laborers, workmen and mechanics, as used in sections sixty-eight to seventy-five, inclusive, shall include all employees of any such city or town, except members of a police or fire force, who are engaged in work being done under a contract with the state department of public works, and shall include other employees except members of a police or fire force, regardless of the nature of their work, of the commonwealth or of any such county, city, town, district, county tuberculosis hospital district, or regional school district to such extent as the commonwealth or such county, city, town, district, county tuberculosis hospital district or regional school district, acting respectively through the governor and council, county commissioners, city council, the qualified voters in a town or district meeting, the trustees of such county tuberculosis hospital district, or the regional district school committee, shall determine, as evidenced by a writing filed with the department. The terms laborers, workmen and mechanics, as used in sections sixty-eight to seventy-five, inclusive, shall, if the city council or the town meeting so votes, also include such elected or appointed officers of the city or town, except the mayor, city councillors, selectment or members of the police or fire force, as the mayor or board of selectmen may, from time to time, designate, as

evidenced by a writing filed with the division.

Any county, city, town or district which accepts this section may provide for payment of compensation of certain or all of its employees by insurance with an insurer, subject, however, to the provisions and limitations of this section.

The term "employee" as used in this section shall include the manager of the municipal light plant, municipal gas plant or municipal gas and electric plant of any city or town owning and operating such plant either pursuant to the provisions of chapter one hundred and sixty-four or of any special law.

St. 1913, c. 807, § 1, original enactment.

St. 1924, c. 434, effective May 29, provided that compensation payable to employees of commonwealth receiving full maintenace in addition to cash salary or wage be based upon average weekly wages plus seven dollars in lieu of full maintenance.

St. 1927, c. 309, § 12, effective July 25, included in the terms "laborers, workmen and mechanics", as used in sections sixty-eight to seventy-five, inclusive, "foremen, subforemen and inspectors of the commonwealth or of any such county, city, town or district, to such extent as the commonwealth or such county, city, town or district, acting respectively through the governor and council, county commissioners, city council or the qualified voter in a town or district meeting, shall determine, as evidenced by a writing filed with the department."

St. 1933, c. 318, § 7, effective October 5, brought within the terms of the act employees of "any county or district maintaining a hospital established under sections seventy-eight to ninety, inclusive, or chapter one hundred and eleven, if the trustees of said hospital accept the provisions of this section."

St. 1936, c. 260, effective August 5, changing the wording of the first sentence, made the act applicable to employees of "any town or district having the power of taxation which accepts the provisions of this section at an annual meeting or at any special meeting called for the purpose, and any county tuberculosis hospital district under sections seventy-eight to ninety, inclusive, of chapter one hundred and eleven, if the trustees of said district accept the provisions of this section." Word "town" substituted for "county", "hospital" changed to "county tuberculosis hospital."

St. 1936, c. 403, effective August 12, substituted "other employees except members of a police or fire force, regardless of the nature of their work" for "foremen subforemen and inspectors" among those included within the meaning of "laborers, workmen and mechanics."

St. 1939, c. 435, effective November 7, added third sentence prohibiting payment of wages or cash salary by commonwealth and its political subdivisions to any person for any period for which weekly total incapacity compensation is payable. In the second sentence it added the proviso that, "in the discretion of the superintendent or other person in charge or control of any institution, where such an employee is employed", maintenance, computed at the rate of seven dollars a week, "may be continued during total incapacity, in which event such weekly compensation shall be based solely upon the cash salary or wages of such employee."

St. 1939, c. 468, effective August 12, revised last sentence to include the terms "laborers, workmen and mechanics" "all employees of any such city or town, except members of a police or fire force, who are engaged in work being done under a contract with the state department of public works."

St. 1941, c. 614, effective November 2, added to third sentence exception permitting payment of salary or wages in full "until any overtime or vacation which the said employee has to his credit has been used, without deduction of any compensation herein provided for which may be due or become due the said employee during the period in which said employee may be totally incapacitated, any other provisions of the law to the contrary notwithstanding."

St. 1945, c. 729, effective October 23, struck out the last part of third sentence, inserting, after the word "incapacitated", the following:
"and except that such salary or wages may be paid in full until any sick leave allowance payment which the employee has to his credit has been used with a suspension of any disability compensation allowance herein provided for which may be due or may become due said employee during the time said employee may be incapacitated, any other provision of law notwithstanding. An employee who is entitled to any sick leave allowance may elect to receive such sick leave allowance payment in lieu of incapacity compensation payments to which he may be entitled to the extent that sick leave allowance payment is due."

St. 1946, c. 422, effective September 3, struck out insertion made by St. 1945, c. 729, substituting therefor present text.

St. 1947, c. 590, effective September 25, increased maintenance allowance to thirteen dollars and fifty cents and inserted in second sentence, after words "employee of the commonwealth", the words "or of any such county, city, town or district."

St. 1951, c. 610, § 2, effective November 13, added second paragraph permitting country, city, town or district to insure part or all of its employees with an insurer.

St. 1959, c. 555, effective December 2, added provision in reference to "regional school district" and "regional district school committee."

St. 1960, c. 655, effective December 8, added last paragraph.

St. 1966, c. 401, effective September 22, added last sentence of first paragraph in reference to "elected or appointed officers."

St. 1969, c. 863, effective November 27, increased sum to thirty dollars for full maintenance.

St. 1971, c. 1059, effective February 9, 1912, substituted first sentence of first paragraph which added "and nurses".

Section 69A. No compensation shall be paid by the commonwealth under this chapter without the previous written consent of the attorney general or an order of the division or member thereof, and no such order shall be entered until the attorney general has been given an opportunity to appear and be heard in behalf of the commonwealth.

St. 1933, c. 315, effective October 5, new section.

St. 1953, c. 314, §6, effective May 1, the word "division" inserted in place of "department."

Section 69B. Payments of compensation, or payments of medical or other expenses or fees by the commonwealth under this chapter following the consent or order required by section sixty-nine A shall be made only upon vouchers bearing the certification of the supervisor of workmen's compensation agents and subject to the approval of the division. Said supervisor shall cause to be periodically made such examinations and investigations as may assist in determining whether or not the injured employee is still incapacitated and whether such payments are due under this chapter.

St. 1936, c. 427, effective September 23, new section.

St, 1955, c. 174, § 5, effective June 13, the word "division" inserted in place of "department."

Section 70. Procedure under sections sixty-nine to seventy-five, inclusive, and the jurisdiction of the division shall be the same as under sections one to sixty-eight, inclusive, and the commonwealth or such county, city, town or district shall have the same rights in proceedings under said sections as the insurer. The state treasurer or the treasurer or officer having similar duties of such county, city, town or district shall pay compensation awarded for injury to persons in its employment under proper vouchers without further authority.

St. 1913, c. 807, § 2, original enactment.

St. 1953, c. 314, effective May 1, the word "division" inserted in place of "department."

Section 71. Except as provided in the following section, such county, city, town or district shall not be liable in any action for a personal injury sustained by a laborer, workman or mechanic in the course of his employment by such county, city, town or district, or for death resulting from such injury.

St. 1913, c. 807, § 3.

Section 72. A laborer, workman or mechanic entering the service of such county, city, town or district who would, if injured, have a right of action against the county, city, town or district by law, may claim or waive his right of action as provided in section twenty-four, and shall be deemed to have waived such right of action unless he claims it.

St. 1913, c. 807, § 4.

Section 73. Any person entitled under section sixty-nine to receive compensation from the commonwealth or from such county, city, town or district and any person entitled under section thirty-one, thirty-four, thirty-four A, thirty-five, thirty-five A or thirty-six to receive compensation from the Massachusetts Turnpike Authority and any police officer of the Massachusetts Bay Transportation Authority so entitled to compensation under said sections and who is also entitled to a pension by reason of the same injury, shall elect whether he will receive such compensation or such pension, and shall not

receive both, except in the manner and to the extent provided by section fourteen of chapter thirty-two. A retirement board, for the purposes of the last-mentioned section, may prosecute in the name and for the benefit of a member or beneficiary of its system or his legal representative or any of his dependents, who is or may become entitled to a pension under chapter thirty-two, all claims which he or they may have for compensation under this chapter, if such member, beneficiary, legal representative or dependent has failed, or such board is of opinion that he will fail, to make or prosecute such claim with reasonable promptness and diligence. Said board, so prosecuting such remedy, shall be deemed to be a party in interest and may make an appeal and institute any proceeding which the employee or his legal representative or dependent might take or institute. In proceedings where the commonwealth, county, city, town or district is represented by the attorney general, city solicitor, town cousel or other attorney, the retirement board may be represented by an attorney of its own selection. Agents of the commonwealth under section seventy-five and such agents, and insurers, of counties, cities, towns or districts, executing agreements for compensation under this chapter, shall forthwith notify the appropriate retirement board.

If a person entitled to such compensation from the commonwealth or from such county, city, town or district receives by special act a pension for the same injury, he shall forfeit all claim for compensation; and any compensation received by him or paid by the commonwealth or by such county, city, town or district which employs him, for medical or hospital services rendered to him may be recovered back in an action at law. No further payments shall be awarded by vote or otherwise to any person who has claimed and received compensation under sections sixty-nine to seventy-five, inclusive.

St. 1913, c. 807, § 5, original enactment.

St. 1936, c. 318, § 4, effective September 1, added, in first sentence, words "except in the manner and to the extent provided by thirty-one D of chapter thirty-two."

St. 1937, c. 336, § 23, effective May 24, added, in first sentence, words "twenty-five D or."

St. 1941, c. 379, § 12, effective September 11, substituted paragraph one for sentence reading "Any person entitled to receive compensation as provided by section sixty-nine from the commonwealth or from such county, city, town or district, who is also entitled to a pension by reason of the same injury, shall elect whether he will receive such compensation or such pension, and shall not receive both, except in the manner and to the extent provided by section twenty-five D or thirty-one D of chapter thirty-two."

St. 1950, c. 209, effective June 11, substituted present text of first two sentences, "sections four H, twenty-five D or thirty-one D" of said chapter thirty-two becoming "section fourteen" thereof. In second sentence clause "the last-mentioned section" substituted for "any of such last mentioned sections."

St. 1967, c. 597, § 23, effective September 6, substituted first sentence which added provision for persons employed by Mass. Turnpike Authority.

St. 1971, c. 1012, § added to first sentence words, "and any police officer of the Mass. Bay Transportation Authority; but also sec § 19, of said c. 1012.

Section 73A. Any employee who by reason of partial disability is entitled to receive compensation as provided by section sixty-nine from the commonwealth, or from such county, city, town or district, and who in the opinion of the head of any department or of any appointing officer, can be suitably employed in such department or by such officer in a position with duties adapted to his reduced earning capacity, may, subject in the case of a state employee to the approval of the division of personnel administration, be so employed at a salary based on his reduced earning capacity as determined by the industrial accident board or a member thereof after a hearing; provided, that no such employee shall be so employed in a position within the classified civil service without the approval of the personnel administrator. The head or appointing officer of the department in which such employee was employed

previous to the injury causing his disability, may, subject to the provisions of chapter thirty-one, temporarily employ a person to fill any vacancy in the original position of such employee that may be caused by his disability, pending the return of such employee to full-time employment at his regular duties.

St. 1941, c. 649, effective January 12, 1942, new section.

St. 1974, c. 835, § 156, effective July 1, 1975, inserted words, "personnel administration" for "personnel and standardization", and "personnel administrator" for "director of civil service".

Section 74. Sections sixty-nine to seventy-five, inclusive, shall apply to all laborers, workmen and mechanics in the service of the commonwealth or of such county, city, town or district under any employment or contract of hire, expressed or implied, oral or written, including those employed in work done in performance of governmental duties as well as those employed in municipal enterprises conducted for gain or profit. Said sections shall not apply to inmates of institutions performing labor under sections forty-eight to seventy-seven, inclusive, of chapter one hundred and twenty-seven. For the purpose of sections sixty-nine to seventy-five, inclusive, all laborers, workmen and mechanics paid by the commonwealth, but serving under boards or commissions exercising powers within defined districts, shall be deemed to be in the service of the commonwealth. For the purposes of sections sixty-nine to seventy-five, inclusive, all employees of welfare districts, organized under the provisions of section forty-four of chapter one hundred and seventeen, shall be deemed to be employees of such town as the district welfare committee shall determine, and if such town has provided for the payment of compensation required by this chapter, the said district welfare committee shall apportion the expenses of providing such compensation among the towns comprising the said welfare district.

St. 1913, c. 807, § 6, original section.

St. 1930, c. 159, effective June 27, section sixty-nine to seventy-five, inclusive, not applicable to inmates of institutions performing labor under sections forty-eight to seventy-seven, inclusive, of chapter one hundred and twenty-seven.

St. 1939, c. 451, § 57, effective August 10, substituted section numbers for words "said sections."

St. 1941, c. 344, § 26, corrected number in section reference.

St. 1953, c. 501, effective September 16, added last sentence.

Section 74A. Any governmental unit, which words as used in this section shall mean the commonwealth or any political subdivision thereof or any municipal gas or electric commission, may, by action of the executive or board having jurisdiction in the commonwealth, the county commissioners in a county, the mayor in a city, the board of selectment in a town, or by the action of any other executive or board having jurisdiction, as the case may be, request and authorize any employee in its service to go to the aid of a second governmental unit or an electric company as defined in section one of chapter one hundred and sixty-four, if in the judgment of the head of the department in which such employee is regularly employed such action is necessary. Any electric company may go to the aid of any governmental unit or other electric company. While in the performance of his duties pursuant to such request and authorization, any such employee of the commonwealth and any county, city, town, or district having the power of taxation which has accepted chapter eight hundred and seven of the acts of nineteen hundred and thirteen, or any town or district having the power of taxation which has accepted or accepts the provisions of section sixty-nine, or any electric company shall be subject to the provisions of and shall be paid the compensation provided by this chapter, as if performing the same duties within the scope of his regular employment.

The governmental unit or electric company so requesting such assistance shall reimburse in full, in accordance with the provisions of this paragraph, the first governmental unit or electric company for any compensation payments lawfully made by it or on its behalf on account of any injuries suffered by such employee in the course of rendering such aid, or on account of his death as a result of such injuries. The treasurer of the first governmental unit or electric company shall annually, on or before January fifteenth, upon the certification of the compensation agent or the insurer furnishing the benefits due under sections sixty-nine to seventy-five, inclusive, notify the treasurer of the second governmental unit or requesting electric company of the amount of reimbursement due therefrom for the previous fiscal year, and such latter treasurer shall forthwith take such steps as may be necessary to insure prompt payment of such amount. All such payments due under the provisions of this paragraph from the second governmental unit or requesting electric company shall be paid by the insurer of the second governmental unit or requesting electric company, or if such governmental unit or electric company has not provided for payment of compensation by insurance with an insurer, then they shall be paid by the requesting electric company or by such governmental unit from a special appropriation, or from an insurance fund established under section thirteen A of chapter forty, and as received they shall be credited to the insurer of the governmental unit which made the payments. On default of any such payment, the first governmental unit or electric company may maintain an action of contract to recover the same.

St. 1955, c. 681, effective August 18, new section.

St. 1974, c. 799, effective November 10, substituted present section.

Section 75. Every board, commission and department of the commonwealth, and every such county, city, town and district shall, through its executive officers or board, designate one or more persons, as it may deem necessary, to act as its agent or agents in furnishing the benefits due under sections sixty-nine to seventy-five, inclusive. Such agent or agents shall be responsible for the proper carrying out of said sections under the direction and supervision of the division until his or their agency is revoked and a new agent or new agents designated. The name and address of every such agent shall be filed with the division and, in the case of every such agent acting for any board, commission or department of the commonwealth, with the personnel administrator immediately upon his designation. This section shall not apply to counties, cities, towns and districts which have provided by insurance for the payment of compensation required by this chapter for all of their employees.

St. 1915, c. 244, § § 1, 2, new section.

St. 1932, c. 19, effective May 17, provided for appointment of more than one agent as deemed necessary.

St. 1951, c. 610, § 1, effective November 13, added words "for all of their employees" at end of last sentence.

St. 1954, c. 680, § 8, effective September 8, imposed requirement that names and addresses of agents of boards, commissions and department of the commonwealth be also filed with director of personnel.

St. 1955, c. 174, § 4, effective June 13, inserted word "division" for word "department" in section.

St. 1955, c. 643, § 11, substituted new first sentence striking out after word "commonwealth" words "employing laborers, workmen and mechanics."

St. 1974, c. 835, § 157, effective July 1, 1975, substituted third sentence.

Section 76. (Repealed St. 1955, c. 234, § 1, effective June 30)

St. 1939, c. 465, § § 4, effective August 12, (but not applicable to cases in which the last exposure to these diseases was prior to this effective date), original enactment read: "The right to and liability for and the amounts of compensation payable for personal injuries arising out of

and in the course of employment in the granite industry and resulting from silicosis or other occupational pulmonary dust disease shall be subject to and governed by sections seventy-seven to eighty-five, inclusive, anything in this chapter to the contrary notwithstanding."

St. 1943, c. 529, § 12, effective November 15, changed word "industry" to "industries" and added second sentence which read: "An employer, the compensation for whose employees is subject to and governed by said sections seventy-seven to eighty-five, inclusive, may, in lieu of becoming an insured person become a self-insurer; and said sections seventy-seven to eighty-five, inclusive, shall apply to an employer who is a self-insurer as well as to an employer who is an insured person."

St. 1950, c. 220, effective June 13, substituted amended section (by which personal injuries in granite industry resulting in silicosis or other occupational pulmonary dust diseases are governed by general sections, except that in silicosis cases in the granite industry payment for temporary total or partial incapacity shall not exceed five thousand dollars) reading as follows: "The right to and liability for, and the amounts of compensation payable for, personal injuries arising out of and in the course of employment in the granite industry and resulting from silicosis or other occupational pulmonary dust diseases shall be subject to and governed by sections one to seventy-five, inclusive, except that in silicosis cases in the granite industry the maximum allowable for total or partial compensation shall not exceed five thousand dollars."

Sections 77 through 85 (Repealed St. 1950, c. 220, effective June 13) Said sections formerly read as follows:

Section 77. For total incapacity or death from silicosis or other occupational pulmonary dust disease the compensation payable shall be as provided in this chapter, except that in no case shall the total compensation payable for incapacity or death, or for incapacity and death in the aggregate, exceed the sum of four thousand dollars. Compensation shall not be payable for partial incapacity due to silicosis or other occupational pulmonary dust disease; provided, that during a transitory period, commencing with the effective date of this section, or, in case the employer at such date is an insured person as defined in paragraph (6) of section one, commencing with the date since when he has continuously been such an insured person, the total compensation payable for incapacity or death or both shall be further limited as follows:—If incapacity occurs, or, in case of no claim for prior incapacity, if death occurs, in the first calendar month of such transitory period, the total compensation payable shall not exceed the sum of five hundred dollars. If incapacity occurs, or, in case of no claim for prior incapacity, if death occurs, in the next calendar month, the total compensation payable shall not exceed the sum of five hundred and fifty dollars. Thereafter the limit on the total compensation payable for incapacity or death, or both, shall increase at the rate of fifty dollars per month, such total in each case to be limited pursuant to the foregoing formula according to the month in which incapacity occurs, or, in case of no claim for prior incapacity, in which death occurs, such progressive increase to continue until the fixed maximum limit of four thousand dollars is reached. For the purposes of this section:—(1) where a business is carried on by an employer who is an insured person, the employer shall be deemed to remain the same insured person, notwithstanding any change in the employer's personnel or form of organization, so long as the business remains substantially the same and is carried on at or about the same place, and, to a substantial degree, under the same management; (2) where an employer, who is an insured person, by purchase or otherwise succeeds to the ownership of the business of another insured person, he shall be deemed to have been continuously an insured person with respect to all employments in his newly acquired business; and (3) where two or more businesses, carried on by two or more employers, are merged or consolidated, otherwise than as specified in clauses (1) and (2), the employer who thereupon becomes the owner of the consolidated business shall be deemed to have been continuously an insured person with respect to all employment in such consolidated business, from the earliest date any employer, who was a party to such merger or consolidation, had been an insured person.

St. 1939, c. 465, § § 1, 4, effective August 12 (but not applicable to cases in which the last exposure to these diseases was prior to this effective date), new section.

St. 1948, c. 217, effective July 13, increased maximum payment from three thousand to four thousand dollars.

Section 78. In cases of incapacity or death from silicosis or other occupational pulmonary dust disease complicated with tuberculosis of the lungs compensation shall be payable as for incapacity or death from silicosis or other occupational pulmonary dust disease alone.

St. 1939, c. 465, § § 1, 4, effective August 12, new section (But not applicable to cases in which last exposure to these diseases was prior to this effective date.)

Section 79. No compensation shall be payable for incapacity or death resulting from silicosis or other occupational pulmonary dust disease unless such disease is due to the nature of an employment in which the employee was engaged for a period of one hundred and eighty days or more and in which the hazards of such disease actually existed; unless such hazards are characteristic of and peculiar to such employment; unless the disease was actually incurred in such employment; and unless total incapacity or death results within three years after the last exposure to hazards of the disease in such employment, or, in case of death, unless death follows continuous

total incapacity from such disease, commencing within the period above limited, for which compensation has been paid or awarded or timely claim made, and results within seven years after such last exposure.

St. 1939, c. 465, § § 1, 4, effective August 12. (But not applicable to cases in which last exposure to these diseases was prior to this effective date.)

Section 80. In the absence of a preponderance of evidence in favor of the claim, silicosis or other occupational pulmonary dust disease shall be presumed not to be due to the nature of any employment subject to this chapter, unless during the ten years immediately preceding the date of total incapacity the employee has been exposed to the inhalation of silica or other harmful dust over a period of not less than five years, one of which shall have been in this commonwealth, under a contract of employment in this commonwealth; provided, that, if the employee shall have been employed by the same employer during the whole of such five-year period, his right to compensation against the insurer shall not be affected by the fact that he had been employed during any part of such period outside of this commonwealth.

St. 1939, c. 465, § § 1, 4, effective August 12, new section. (But not applicable to cases in which last exposure to these diseases was prior to this effective date.)

Section 81. No compensation shall be payable for incapacity or death resulting from silicosis or other occupational pulmonary dust disease if the employee, at the time of entering into the employment of the employer by whom or by whose insurer compensation would otherwise be payable, falsely represented himself in writing as not having previously been incapacitated, laid off or compensated, in damages or otherwise, because of such disease.

St. 1939, c. 465, § § 1, 4, effective August 12, new section. (But not applicable to cases in which last exposure to these diseases ws prior to this effective date.)

Section 82. When compensation is payable under this chapter for incapacity or death resulting from silicosis or other occupational pulmonary dust disease, the insurer which was on the risk of the employer, in whose employment the employee was last exposed to the hazards of the disease during a period of sixty days or more, at the time when the employee was last exposed to such hazards, shall be liable therefor; and the notice of injury or death, and the claim for compensation, as required by this chapter, shall be given and made to such insurer or to the employer.

St. 1939, c. 465, § § 1, 4, effective August 12, new section. (But not applicable to cases in which last exposure to these diseases was prior to this effective date.)

Section 83. In case of continuous incapacity or of continuous incapacity and death, from silicosis ot other occupational pulmonary dust disease, the date of total incapacity shall, for all purposes, be deemd the time of the happening of the injury, except that in a case in which the total incapacity is caused by silicosis or other occupational pulmonary dust disease, and in which the total incapacity does not occur until after the last employment in which the employee was exposed to the hazard of silicosis or other occupational pulmonary dust disease, and in which the subsequent employment, if any, bears no casual relation to the total incapacity, the time of the injury shall be deemed to be the last time the employee was exposed to the hazards of silicosis or other occupational pulmonary dust disease. If the date of such incapacity be controverted and cannot be exactly fixed scientifically, the medical referees, or a majority of them shall fix the most probable date, having regard to all the circumstances of the case.

St. 1939, c. 465, § § 1, 4, original enactment, effective August 12. (But not applicable to cases in which last exposure to these diseases was prior to this effective date.)

NOTE: See repeat of § 9B by St. 1947, c. 286, and its probable effect.

Section 84. No proceedings for compensation for incapacity or death from silicosis or other occupational pulmonary dust disease shall be maintained unless notice of injury, and, if death results, also of death, and claim for compensation therefor, be given and made as required in this chapter.

St. 1939, c. 465, § § 1, 4, effective August 12, new section. (But not applicable to cases in which last exposure to these diseases was prior to this effective date.)

Section 85. The insurance to be provided by an employer for the payment to his employees of the compensation hereinbefore provided for injuries resulting from silicosis or other occupational pulmonary dust disease may be separate and distinct from the insurance to be provided for the payment of compensation for all other injuries covered by this chapter.

St. 1939, c. 465, § § 1, 4, effective August 12. (But not applicable to cases in which the last exposure to these diseases was prior to this effective date), new section.

EXTRACT FROM CHAPTER 149, LABOR AND INDUSTRIES

General Laws (Ter. Ed.) C. 149 § § 51B, 60-74, inclusive, and § 104.

Section 51B. An injured worker who has received workmen's compensation under chapter one hundred and fifty-two shall have preference in re-em-

ployment by the employer for whom he worked at the time of his injury over other persons not previously employed by such employer; provided, that the available employment is suitable for the mental and physical well-being of the worker and is within his qualification. An employer who violates this section shall be punished by a fine of not more than five hundred dollars.

Section 60. No person shall employ a child under sixteen years of age, or permit him to work in, about or in connection with any factory, workshop, manufacturing or mechanical establishment at any time.

Except as provided in sections sixty-nine and eighty-six, no person shall employ a child under sixteen years of age, or permit him to work in, about or in connection with any mercantile establishment, barber shop, bootblack stand or establishment, stable, elsewhere than on a farm, garage, brick or lumber yard, telephone exchange, telegraph or messenger office, place of amusement, or in the construction or repair of buildings, or in any radio broadcasting station except as talent. Except as provided in sections sixty-nine and eighty-six, no such child shall be employed at work performed for wages or other compensation, to whomsoever payable, during the hours when the public shools are in session, nor, except as provided in section sixty-nine, and except that such child may be employed as a golf caddie during daylight hours, shall he be employed at work before half past six o'clock in the morning or after six o'clock in the evening.

This section and section eighty-six shall not be deemed to prohibit children under sixteen from taking part on the stage for a limited period in a play or musical comedy in a theatre wherein not more than two performances are given in any one day and not more than eight performances are given in any one week if the commissioner, after being satisfied that the supervision of such children is adequate, that their living conditions are healthful, and that their education is not neglected, gives his written consent to such taking part.

Section 61. No person shall employ a minor under sixteen or permit him to work in operating or assisting in operating any of the following machines: (1) Circular or band saws or ensilage cutters, which shall include any such saw or cutter on a farm, except with respect to a minor under sixteen who is related by blood or marriage to the owner or operator of the farm on which such minor is employed or permitted to work, (2) wood shapers, (3) wood jointers, (4) planers, (5) picker machines or machines used in packing wool, cotton, hair or other material, (6) paper lace machines, (7) leather burnishing machines, '(8) job or cylinder printing presses operated by power other than foot power, (9) stamping machines used in sheet metal and tinware or in paper or leather manufacturing or in washer and nut factories, (10) metal or paper cutting machines, (11) corner staying machines in paper box factories, (12) corrugating rolls such as are used in corrugated paper or in roofing or washboard factories, (13) steam boilers, (14) dough brakes or cracker machinery of any description, (15) wire or iron straightening or drawing machiner, (16) rolling mill machinery, (17) power punches or shears, (18) washing or grinding or mixing machinery, (19) calendar rolls in paper and rubber manufacturing or other heavy rolls driven by power, (20) laundering machinery, (21) upon or in connection with any dangerous electrical machinery or appliances; or in adjusting or assisting in adjusting any hazardous belt to any machinery, or in oiling or cleaning hazardous machinery, or in proximity to any hazardous or unguarded belts, machinery or gearing while such machinery or gearing is in motion; or in scaffolding; or in heavy work in the building trades; or in stripping, assorting, manufacturing or packing tobacco; or in any tunnel; or in a public bowling alley; or in a pool or billiard

room; or in any capacity on moving motor vehicles.

Section 62. No person shall employ a minor under eighteen or permit him to work: (1) in or about blast furnaces; (2) in the operation or management of hoisting machines; (3) in oiling or cleaning hazardous machinery in motion; (4) in the operation or use of any polishing or buffing wheel; (5) at switch tending; (6) at gate tending; (7) at track repairing; (8) as a brakeman, fireman, engineer, motorman, or conductor upon a railroad or railway; (9) as a fireman or engineer upon any boat or vessel; (10) in operating motor vehicles of any description; (11) in or about establishments wherein gunpowder, nitroglycerine, dynamite or other high or dangerous explosive is manufactured or compounded; (12) in the manufacturing of white or yellow phosphorous or phosphorous matches; (13) in any distillery, brewery, or any other establishment where alcoholic beverages, as defined in section one of chapter one hundred and thirty-eight, are manufactured, packed, wrapped, or bottled; (14) in that part of any hotel, theatre, concert hall, place of amusement or other establishment where intoxicating liquors are sold; (15) in any room or other subdivision of a building at a height of more than 30 feet above the floor of such room or other subdivision or in any other place at a height of more than 30 feet above the ground level or water level, as the case may be; in the operation or management of any type of elevator other than a self-service elevator, as defined in the regulations of the board of elevator regulations and duly filed with the office of the state secretary, or in the cleaning or repairing of any type of elevator. This section shall not prohibit the employment of minors in drug stores, nor shall it prevent the employment of a minor, to whom has been issued a license to operate motor vehicles, in the operation on a farm, or on a way for a distance not exceeding one mile therefrom, or any motor vehicle, tractor or self-propelled or agricultural machine of any description used for agricultural or farm purposes.

Section 63. The department may, after a hearing duly held, determine whether or not any particular trade, process of manufacture or occupation, in which the employment of minors under the age of sixteen or eighteen is not forbidden by law, or any particular mthod of carrying on such trade, process of manufacture or occupation, is sufficiently dangerous or is sufficiently injurious to the health or morals of minors under sixteen or eighteen to justify their exclusion therefrom. No minor under sixteen or eighteen shall be employed or permitted to work in any trade, process or occupation thus determined to be dangerous or injurious to such minors, respectively.

Section 64. No person shall employ a minor or permit him to work in, about or in connection with any saloon or bar room where alcoholic liquors are sold. No person shall knowingly take or send any such minor or cause or permit him to be sent to any disorderly house or house of prostitution or assignation or other immoral place of resort or amusement.

Section 65. No person shall employ a minor under sixteen, or permit him to work, in any occupation for which a permit for employment is required, for more than six days in any one week, or more than forty-eight hours, in any one week, or more than eight hours in any one day, or, except as provided in section sixty-nine, before half-past six o'clock in the morning, or after six o'clock in the evening. If the work performed by any such minor in a day is not continuous, but is divided into two or more periods, the person employing such minor shall so arrange such minor's work that all such periods of work shall fall within a period of nine consecutive hours. The time spent by such a minor in a continuation school or course of instruction as required by

section twenty-two of chapter seventy-one shall be reckoned as a part of the time he is permitted to work.

Section 66. No person shall employ a boy under eighteen or a girl under twenty-one or permit such a boy or girl to work in, about or in connection with any establishment or occupation named in section fifty-six or sixty before six o'clock in the morning or after ten o'clock in the evening; provided, that girls under twenty-one may be employed as operators in regular service telephone exchanges or telegraph offices until, but not after, eleven o'clock in the evening; and provided, further, that nothing herein shall authorize the employment of girls under twenty-one in any capacity in manufacturing, mechanical or mercantile establishments in violation of section fifty-nine; and further provided that noting herein shall prohibit the employment in any capacity in manufacturing or mechanical establishment or factories of any male or female of eighteen years of age or over between the hours of six o'clock in the morning and eleven o'clock in the evening.

Section 67. Except as limited by section fifty-six, no person shall employ a boy or a girl under eighteen or permit such a boy or girl to work in, about or in connection with any establishment or occupation named in section fifty-six or sixty for more than six days in a week, or more than forty-eight hours in a week, or more than nine hours in a day, and, if the work performed by such a boy or girl in a day is not continuous, but is divided into two or more periods, the person employing such boy or girl shall so arrange his or her work that all such periods shall fall within a period of ten consecutive hours.

Section 68. Except for the delivery of messages directly connected with the business of conducting or publishing a newspaper to a newspaper office or directly between newspaper offices, no person shall employ a minor or permit him to work as a messenger for a telegraph, telephone or messenger company in the distribution, transmission or delivery of goods or messages before five o'clock in the morning or after ten o'clock in the evening.

Section 69. No boy or girl under twelve shall sell, expose or offer for sale any newspapers, magazines, periodicals or any other articles of merchandise of any description, or exercise the trade of bootblack or scavenger, or any other trade, in any street or public place.

A boy or girl twelve may engage or be employed in any city or town in the sale or delivery of newspapers, magazines or other periodicals in a street or on a newspaper route; provided that no boy or girl under sixteen, except a child granted an employment permit by the superintendent of schools when such superintendent determines that the welfare of such child will be better served through the granting of such permit, may so engage or be employed during the hours that the public schools of the city or town in which such minor resides are in session nor before six o'clock in the morning nor after eight o'clock in the evening, nor unless such boy or girl has secured a badge from the officer authorized to issue permits for employment in the city or town where he resides to which badge sections seventy-one and seventy-two shall apply.

Section 70. No boy or girl under sixteen shall engage or be employed in any of the trades or occupations mentioned in section sixty-nine unless such boy or girl complies with all the provisions of sections seventy-one, seventy-two, and seventy-three and will all the legal requirements concerning school attendance, and unless a badge has been issued to such boy or girl by the officer authorized to issue employment permits in the city or town where such boy or girl resides. The charge, if any, for such a badge issued to such a boy

or girl engaged or employed in the sale of newspapers in a street shall be such sum, not more than twenty-five cents, as shall be determined by the officer issuing the same.

Section 71. Such badge shall not be issued until the officer issuing the same shall have received, examined, approved and filed evidence that such boy or girl is twelve or over, which shall consist of the proof of age required by section eighty-seven for the issuing of an employment permit. Such officer may refuse to issue such badge to any boy or girl who in his opinion, after due investigation, is found physically or mentally incompetent or unable to do such work in addition to the regular school attendance required by law.

Section 72. The badge shall be worn, conspicuously exposed at all times, by such boy or girl while so working. No boy or girl to whom the said badge has been issued shall transfer the same to any other boy or girl. Said boy or girl shall exhibit the same upon demand at any time to any officer mentioned in section seventy-seven. The school committee of any city may make further regulations and requirements for issuing such badges.

Section 73. No boy or girl under sixteen shall engage in any of the trades or occupations mentioned in section sixty-nine in any street or public place after eight o'clock in the evening or before six o'clock in the morning, nor, except in the case of a boy or girl granted an employment permit by the superintendent of schools when such superintendent determines that the welfare of such boy or girl will be better served through the granting of such permit, during the hours when the public schools in the city or town where such boy or girl resides, or the school which such boy or girl attends, are in session.

Session 74. Except as provided in sextion fifty-six, every person employing any minor in any establishment mentioned in section sixty shall keep posted in a conspicuous place in the room where such minor is employed or permitted to work a printed notice stating the number of hours such minor is required or permitted to work on each day of the week, with the total for the week, the hours of commencing and stopping work, and the hours when the time allowed for meals begins and ends for each day of the week.

The employment of any minor at any time other than as stated in said printed notice shall be deemed a violation of this section. The terms of such notice for any week or part thereof shall not be changed after the beginning of labor on the first day of the week without the written consent of the commissioner.

Section 104. No person shall employ a child under fifteen years of age, or permit him to appear as a participant in a theater, circus or any other public exhibition as a singer, dancer, acrobat, actor or in any other entertainment capacity; but this section shall not prevent the education of children in vocal and instrumental music or dancing or their participation in any exhibition of dancing conducted as a part of its graduation exercises by a school furnishing them instruction in dancing, or their participation in a church, chapel, school or school exhibition, or prevent their taking part in any festival, concert or other non-commercial exhibition upon the special written permission of the local licensing authority; nor shall it prevent children under fifteen from taking part on the stage for a limited period in a play or musical comedy in a theater wherein not more than two performances are given in any one day and not more than eight performances are given in any one week if the commissioner, after being satisfied that the supervision of such children is adequate, that their living conditions are healthful and that their education is not neglected, gives his written permission to such taking part.

This section shall not prevent participation of a child under fifteen years of age in a fashion show, provided such child is accompanied by either one of his parents. Whoever violates this section shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than six months.

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RULES

I. GENERAL PROVISIONS

Rules

1. These rules are hereby adopted and promulgated by the division of industrial accidents in accordance with the authority conferred upon it by section 5 of chapter 152 of the General Laws (Ter. E.), as amended, for the purposes of carrying out the provision of said chapter. Process and procedure before the board, or any member thereof, shall be in accordance with the rules as herein published or subsequently amended. The provisions of these rules, so far as they are the same as rules hitherto adopted by the division of industrial accidents, shall be construed as a continuation thereof and not as new provisions.

Definitions

2. The words "chapter" and "sections" as hereinafter used shall refer, unless otherwise specified, to chapter 152 of the General Laws (Ter. Ed.) as amended. Reference to "insurer" shall include "self-insurer."

Report of Injury

3. The report of personal injuries required by section 19 to be filed with the division by employers shall be rendered within the time specified in said section 19 and in the form prescribed by the division (form no. S. F. 1). Supplemental reports required by said section 19 shall likewise be rendered on the form prescribed by the division (form no. S. F. 3).

Medical Records

4. In any case when filing an agreement in regard to compensation, an employee's discontinuance agreement, an application to discontinue compensation or when stating denial of liability or requesting a hearing, and in all cases of continuing disability where compensation is being paid, the insurer shall file with the division copies of all medical and other records specified in section 20 of the chapter immediately on receipt by the insurer.

5. Insurers shall require their physicians who furnish treatment to injured employees at private hospitals to keep records of such cases in the same manner as they are kept in public hospitals. The insurer is to file copies of such records with the division, as required under rule 4 above.

6. The division shall, upon receipt of records kept or compiled under G. L. (Ter. Ed.), c. 111 § 119, cause them to be impounded under seal apart from the main file, to be employed only by the board or member in connection with a proceeding under this chapter. Where such records become evidence in any proceeding, they shall be incorporated in the report by reference only, and in event of certification under § 11 of the chapter shall be certified and impounded under seal.

Witnesses

7. A party desiring the appearance of the medical adviser of the Division, appointed under section 23, chapter 23, or an impartial physician, appointed under section 9 of the chapter as witness in any proceedings before the board or member, shall make written request for such attendance to the division. Parties shall not summon any of the foregoing to testify in any proceedings

before the division or member without the previously granted consent of the division.

8. The summoning of witnesses shall be made substantially in the form prescribed by the division (I. A. B. form no. 6).

Depositions

9. Where a party desired to obtain depositions of persons or witnesses residing without the commonwealth, as provided in section 5 of the chapter, the interrogatories and cross-interrogatories necessary thereto shall be prepared in accordance with the rules of the superior court, relating to interrogatories, and shall be transmitted to the division in triplicate, as to each party or witness so to be interrogated. A copy of such interrogatories or cross-interrogatories shall then be transmitted by the division to the adverse party to enable the filing of any objections thereto, such objections to be also in writing and filed in triplicate. The commission or commissions to take depositions will thereafter be transmitted by the division to the party presenting interrogatories for forwarding by the latter to the person designated in the commission to take such deposition, or the division may, at the request of any party, proceed in accordance with the provisions of section 5, as most recently amended by chapter 359 of the acts of 1943, and, in the event of a party desiring such latter procedure, interrogatories shall be filed in accordance with the procedure above prescribed for depositions. The interrogating party shall not communicate in any way with the clerk of the superior court relative to the transmission or receipt of such commission, or with officers in other jurisdictions relative to the transmission or receipt of such request. A party seeking deposition will be required to pay the fee stipulated by the division for such service before a commission is requested to issue, or a reasonable fee for stenographic services in connection with the taking of such depositions as provided in section 5 when required.

9A. Where a party desires, or is ordered, to obtain depositions or testimony of medical witnesses within the Commonwealth, as provided in Section 5 of Chapter 152, the depositions shall be prepared in accordance with Rule 3.15 of the Supreme Judicial Court and shall be taken in sufficient numbers to allow each party a copy, and the original shall be transmitted to the Division, as to each party or witness to be deposed.

All objections and exceptions contained in the record shall be filed in writing prior to or at the time of the mailing of the deposition to the Board.

When the Hearing Member receives a deposition, he will make it part of the evidence as if the party had so testified, and will rule on all objections contained therein, and will save the rights of any party aggrieved by such rulings.

At the time a depostion is ordered hereunder, the Hearing Member will set the date for the filing of such deposition with the Division. No extension of time will be allowed unless the Hearing Member so orders."

II. PROCEEDINGS AND PROCESS PRIOR TO HEARING

A. Where Parties Reach an Agreement.

1. Where the insurer and the injured employee reach an agreement in regard to compensation, the memorandum thereof required by section 6 shall be filed with the division in the prescribed form (form no. S. F. 4) within fifteen days of the date upon which disability commenced.

2. Where such an agreement in regard to compensation, as referred to in A-1 above, has been reached and payments commenced in accordance with the terms thereof, such payments shall not be discontinued except in the following cases:

(a) Where compensation has been ordered discontinued or modified by a single member or by a reviewing board under section 8, 10 or 12 of the chapter.

(b) Where the employee has assented thereto in writing on the prescribed form (I.A.B. form no. 15) and original of such form has been filed with the division.

(c) Where the division or a member thereof approves under section 29 of the chapter.

(d) Where the employee has returned to work for a reasonable period of time and receives an average weekly wage equal to or in excess of that set forth in the memorandum of agreement, provided that compensation shall not be discontinued under this sub-section unless the insurer files with the division an unsigned agreement form (I.A.B. form no. 15) containing the information requested thereon together with a memorandum of the facts relative to the discontinuance under this sub-section.

(e) Where a substitute agreement has been filed with the division.

3. In cases of total incapacity compensation, the memorandum of agreement shall bear the date upon which the agreement is reached as well as the date upon which it is to become effective.

4. In cases of agreement in regard to partial compensation, the memorandum of agreement shall bear the date upon which the agreement is reached as well as the effective date thereof and state the original average weekly wage, the rate of agreed earning capacity, the rate of compensation and the date of the employee's return to work, if he so returns.

5. Where the insurer and the injured employee have reached an agreement in regard to the resumption of compensation payments, the insurer shall file notice thereof with the division on the form prescribed (I.A.B. form no. 25).

B. Where Parties Fail to Reach an Agreement.

1. If the insurer and the injured employee fail to reach an agreement in regard to compensation the insurer shall, within fourteen days after the injury, report that fact in writing to the division stating the reasons for denying compensation.

2. Where the insurer and the injured employee fail to reach an agreement in regard to compensation, no hearing thereon will be held unless the employee files (a) in all cases a notice of such failure in accordance with Rule 4 below and (b) in those cases where compensation has never been paid, a claim as provided in Rule 3 below.

3. The claim for compensation required by sections 41 and 49 of the chapter shall be in writing, filed with the division within the time and in the detail specified in said sections and in the form prescribed by the division (I.A.B. form no. 9).

4. Notice of failure of parties to agree in regard to compensation shall be filed with the division on the form prescribed and designated "Claim-Request-Appearance" (I.A.B. form no. 31).

C. Applications for Discontinuance Under Section 29.

1. Applications for discontinuance under section 29 shall be filed on form prescribed by the division (I.A.B. form no. 17), supported by the most recent medical report.

2. The division will not discontinue compensation ex parte under this section on the sole ground of the employee's alleged refusal to submit to operation; in such cases the insurer should request a hearing.

D. Claims for Further Incapacity Compensation.

1. Where compensation has been discontinued, except in those cases where it has been discontinued after a decision of the single member or a reviewing board on the ground that the employee's incapacity has ceased, and the employee claims further incapacity compensation, he shall file a request for hearing on I.A.B. form no. 31 before a hearing will be held thereon.

2. Where a hearing is requested as provided in Rule D-1 above, no evidence will be received relative to any incapacity during any period ante-dating a prior decision of a single member or the decision of a reviewing board, if there has been a determination on review.

E. Petitions for Rehearing Under Section 12.

1. Where there is a decision discontinuing compensation on the ground that the employee's incapacity has ceased and an original or subsequent petition for rehearing under paragraph 2 of section 12 is filed with the division, it shall be in the form prescribed (I.A.B. form no. 24), shall sufficiently state the basis of the claim for further incapacity and shall be supported by affidavits of the facts alleged therein. Copies of said petitions and affidavits in support thereof shall be furnished the insurer.

2. The hearing of the evidence on such petition shall be held before a single member and his decision shall be final unless a claim claim for review is filed as provided in section 8 of the act and in the form prescribed in Rule V-1 of these rules.

III. PARTIES

A. Appearances.

1. Name and address of every party and of any attorney acting for such party shall be entered in the file of each case, in the form of appearance, prescribed by the division (I.A.B. form no. 14), or some paper constituting an appearance.

2. A substitution of attorneys or an address or change of address shall be entered by the division in the file of each case at any time after the appearance on written request filed. In each case the division and parties until such substitution or change is entered and thereafter until the parties have notice thereof, may rely on action by and notice to any party and attorney appearing for him if any, who has appeared previously and on notice at an address previously entered.

3. Any appearance shall constitute a general appearance unless the purposes thereof are specified in writing.

B. Who May Practice Before the Division.

1. Any attorney admitted to practice before the courts of the commonwealth may practice before the division.

2. In any proceeding before the division any person may appear and act for himself, or for a partnership of which he is a member, or for a corporation of which he is an officer, or for anybody from whom he has a written power of attorney on file with the division.

3. Notice of any change of attorney or other qualified representative shall be given promptly to the division.

4. The division may, for cause, deny or suspend the right of any person to practice before it.

IV. PROCEEDINGS AT HEARINGS BEFORE SINGLE MEMBER.

Calling the List

1. Parties and their attorneys, if any, are required to be present at the time and place specified in the notice of hearing issued by the division. A case may be dismissed in the discretion of the member for failure to answer the call.

2. Where at the call of the list all parties have announced their readiness to proceed when such case is assigned to a member for hearing, the parties shall be held to proceed forthwith.

Issues

3. Before the taking of testimony in a hearing before a single member, the insurer shall state clearly the grounds upon which the insurer either has declined to pay compensation or further compensation, or the ground upon which it seeks discontinuance, and thereafter only that testimony will be admissible which relates to the issues raised by the insurer's statement, and on all other issues the employee's rights under the chapter will be deemed to have been established.

Witnesses

4. Testimony of parties and witnesses before a member or board shall be given under oath or affirmation; the form of oath or affirmation to be administered being as follows:

> "You, each of you, solemnly swear (or affirm) that the evidence you shall give to the member (or board) in the cause now in hearing, shall be the truth, the whole truth and nothing but the truth. So help you God. (This you do under the pains and penalties of perjury.)"

5. Where testimony is given through an interpreter, the latter shall give oath as follows:

> "You solemnly swear that you will faithfully and impartially, and according to the best of your knowledge and ability, interpret the oath to the witnesses, also any and all questions which may be put to them, together with answers thereto, to the member (or board). So help you God."

6. Unless otherwise permitted by the hearing member, the examination

and cross-examination of each witness shall be conducted by one counsel only for such party and the counsel shall stand while so examining and cross-examining. See also Rule 1 nos. 7 and 8.

Briefs

7. The hearing member, at his discretion, may permit an argument on the facts following a hearing, may require the filing of briefs in such form and within such time as he may direct or may decline to receive briefs.

Impartial Physicians

8. The report of the impartial physician made under section 9 of the chapter shall be accepted by the board member as evidence in the case.

9. The division or member may decline to allow rebuttal of reports of impartial physicians where request for such rebuttal is received later than seven days after the mailing of such reports.
See also Rule XI nos. 1,2, 3 and 4.

V. PROCEEDINGS WHEN CLAIM FOR REVIEW IS FILED

1. The claim for review specified in section 10 of the chapter shall be in the form prescribed by the division (I.A.B. form no. 12). Such claim for review shall be filed with the division within ten days of the filing date of the decision of the member.

2. No testimony will be taken by the reviewing board. The board may, however, in its discretion, take a view, examine an injured employee, or request further medical examination and report.

3. Proceedings in hearing on review shall be confined to argument on the record; such argument shall be limited to one counsel for each party and each counsel shall be allowed fifteen minutes for such argument unless otherwise determined by the board.

4. Questions raised before the single member and not argued before the reviewing board shall be deemed waived.

5. The party or parties claiming a review shall file a brief with the Division not later than fifteen (15) days after such claim or claims have been filed, and briefs of the adverse party or parties shall be filed not later than thirty (30) days after the filing with the Division of the initial claim for review. In addition to furnishing the Board with the original brief together with sufficient copies for each Member of said Reviewing Board, copies shall be furnished forthwith to the adverse party or parties or their attorneys. The Reviewing Board need not pass upon questions or issues not argued in briefs. Nothing argued in a brief shall be deemed to be waived by a failure to argue orally.

6. Copies of motions for recommittal and supporting affidavits, briefs and any other motion or pleading filed with the reviewing board shall be furnished in sufficient number to provide each member of the reviewing board, the secretary and the adverse parties or their attorneys.
See also Rule IV no. 7.

7. The attorney of the party in whose favor a Review Board decision is made shall draw a draft decision, and without reciting previous proceedings, decisions shall, in appropriate cases, begin in substance, as follows:

"The _____, having filed a claim for review, the within named Reviewing Board heard the parties at _____, Massachusetts on _____.
Reviewing Board: _____, _____, _____.
Appearances: _____, for the Employee
_____, for the Insurer
Issues: As stated in the report of the Single Member.
The report and decision of the Single Member filed on _____, the verbatim transcript of the evidence filed on _____, and this report and decision of the Reviewing Board contain and constitute the record."

The Reviewing Board draft decision as drawn shall be filed with the Secretary of the Board within thirty (30) days of the date that the Review Board notifies the parties of its action on review. In the event that the Secretary deems the draft decision improperly drawn, the attorney who drew the draft decision may be allowed and additional twenty (20) days to submit one in proper form.

Copies of the draft decision shall be furnished in sufficient number to provide each Member of the Reviewing Board, the Secretary, and the adverse parties or their attorneys.

VI. PROCEEDINGS AFTER DECISION OF REVIEWING BOARD

1. Requests for certified copies of an order or decision of the reviewing board or member or of a memorandum of agreement and all papers in connection therewith required by section 11 of the chapter shall be accompanied by payment of a minimum cost of $2.00. When the actual costs of preparing the foregoing exceeds the minimum charge, the party requesting said copies shall, before the receipt of the same from the division and after notice thereby, remit the additional amounts charged therefor.

2. Where a decree of the superior court is entered, remanding the case to the board, attested copy of said decree shall be filed with the division by either party together with an appropriate motion for action within the terms of said decree.

VII. FEES OF ATTORNEYS AND CHARGES FOR MEDICAL SERVICES

1. At any hearings under sections 13 and 30 of the chapter to establish the reasonableness and necessity of physicians' charges, and it appears that no compensation has been paid under an agreement of the parties, or there appears of record no finding that the employee is entitled to compensation, the physician or other person seeking to establish a right to payment of such charges shall be obliged to establish that such services were rendered in connection with a case compensable under the chapter.

2. Fees of special nurses when necessary shall be allowed at a rate to be determined by the division from time to time.

VIII. CASES INVOLVING THE LEGAL LIABILITY OF THIRD PARTIES

1. Immediately upon the entry of a judgment in favor of the employee or insurer, or the entry of an agreement for judgment following the judicial approval of a settlement by agreement of the parties during trial in an action

at law against a third party under section 15 of the chapter, the insurer shall notify the division thereof, stating the amount recovered, or to be recovered, or the amount of the approved settlement, as the case may be, in the form approved by the division (I.A.B. form no. 23).

2. Except where under the provisions of section 15 of the chapter approval of the division is unnecessary, in all cases a petition by the employee, or insurer under said section for leave to settle by agreement with a third party shall be in the form prescribed by the division (I.A.B. form no. 13).

3. Petitions filed in accordance with the provisions of Rule VIII-2 above shall be set for hearing on the matter thereof before a single member, and he shall report the facts to the division for decision.

4. Except where under the provisions of section 15 of the chapter approval of the division is unnecessary, where the amount recovered by the insurer by judgment or approved settlement under said section is greater than the amount of compensation paid and the employee is still receiving compensation, the insurer shall hold in trust, subject to the order of the division, the employee's contingent share in the excess, including interest thereon, pending final determination of the insurer's obligation for further payment of compensation under the chapter.

5. Where there is a recovery after verdict and judgment by either the employee or the compensation insurer against a third party under G. L. (Ter. E.) c. 152, § 15, as most recently amended by chapter 432 of the acts of 1943, the party bringing the action shall report to the division in detail any agreement as between the employee and the compensation insurer regarding the sharing of any attorney's fee in respect to the action brought and prosecuted to such verdict and judgment.

IX. AGREEMENTS REDEEMING LIABILITY

1. Payment of weekly compensation shall not be suspended upon the execution of an agreement to redeem liability under section 48 of the chapter, but shall be continued, and upon approval of such agreement by the division, the insurer shall be entitled to deduct from the lump sum the amount of weekly payments made subsequent to the date of such agreement unless otherwise ordered.

2. Unless otherwise ordered conferences for the consideration of agreement to redeem liability shall be had when written application therefor is made to the division and set by the division for such consideration on a date and at a place of which notice is given to all parties.

3. Unless otherwise ordered insurer shall, when making disbursements under an agreement to redeem liability approved by the division, make payment by mail directly to each individual (party, doctor, attorney or other person) entitled to payment thereunder as specified by the division in the notice of approval of said agreement.

4. If the employee is a minor the agreement to redeem liability shall be signed by the minor and his parent, guardian or next friend.

X. COMPENSATION TO PUBLIC EMPLOYEES

Appointments and Duties of Agents Generally

1. Compensation agents of department, boards and commissions of the commonwealth of the several counties and of cities, towns and districts

appointed under section 75 of the chapter shall familiarize themselves and comply with the provisions of the chapter, more particularly with the provisions of sections 69 to 75 both inclusive therof, with the provision of the rules adopted and promulgated by the division under said chapter and with the requirements contained in circular letters of instruction published to them by the division from time to time. Such agents shall make certain that their correct names and addresses and date of appointment are on file with the division.

2. Agents shall maintain a permanent case record of every claim of personal injuries under the chapter, containing copies of all papers relating thereto, which shall at all times be open to the inspection of the division.

3. Compensation agents shall immediately make full and complete investigation of every case.

Where parties reach an agreement

4. Where the compensation agent and the injured employee reach an agreement in regard to compensation, a memorandum of agreement, as provided by section 6 of the chapter and Rule II-A above, shall be executed and a copy thereof forwarded to the division. In addition to the foregoing, in the case of commonwealth employees, the agent shall forward a copy of such agreement together with report of his investigation to the attorney general for his information and action under section 69A of the chapter.

Where the parties fail to reach an agreement

5. Where the parties fail to reach an agreement, the agent shall promptly notify the claimant and the division. In the case of commonwealth employees the agent shall notify the attorney general in addition thereto.

Fees of physicians and charges of hospitals

6. Under sections 13 and 30 of the chapter, the division has authority to determine fees of physicians and charges of hospitals for services under the chapter. In the case of commonwealth employees all bills for medical and hospital services shall be submitted to the attorney general for his action under section 69A, and thereafter such bills shall be submitted to the division for approval before they are scheduled for payment by the agent.

7. In cases where it is alleged that death is the result of an injury arising out of and in the course of employment by the commonwealth, agents shall furnish full information to the attorney general promptly.

XI. IMPARTIAL PHYSICIANS

1. Where a party desires the appointment of an impartial physician by the division or a member in the exercise of its or his discretion, request for such appointment shall be made in the form prescribed by the division (I.A.B. form no. 7) and shall set forth briefly the reasons for such request.

2. An impartial physician who has examined an employee upon the appointment of the division or member and reported thereto under section 9 of the chapter may not thereafter furnish medical or surgical treatment to such employee except upon agreement of the parties and with the approval of the division or member.

3. An impartial physician appointed under section 9 of the chapter shall not refer the employee to another physician for further or different examination except upon the appointment of such other physician by the division or member.

4. Impartial physicians appointed under section 9 of the chapter shall not at any time nor for any reason discuss their finding, diagnoses, opinions or reports or the reasons for the same with anybody other than the division or member.
See also Rule IV nos. 8 and 9.

XII. MISCELLANEOUS

Conferences

1. No conference may be had with the board or members on Mondays unless otherwise expressly ordered.

Direct payments to dependents

2. In all cases where the insurer shall pay compensation to a widow or other dependent, the insurer shall pay the same directly to such widow or dependent unless otherwise ordered by the board. The board does not require, as necessary to enable such payment, the appointment of an administrator, guardian or conservator, and will not order payments made to a person holding an accredited power of attorney from the widow except in unusual cases.

XIII. SELF-INSURANCE

1. Every employer desiring to be licensed as a self-insurer shall make application therefor on forms provided by the division. The application shall be in such form as the division may provide and shall contain such information as the division may require. Employers shall, upon request of the division furnish such additional information as the division may require. Any information shall be confidential and used only for the purpose of determining the ability of the employer to be a self-insurer.

2. Employers licensed as self-insurers shall in addition to these rules comply with any rules promulgated and published by the division.

3. As a condition precedent to the issuance of a license to an employer, the employer shall deposit with the state treasurer securities or furnish a surety bond in an amount determined by the division together with satisfactory evidence that the reinsurance required by the division as provided in sub-paragraph (2) (c) of Section 25A of the Act is in effect. Every self-insurer shall keep on deposit an amount of securities, or shall furnish a surety bond in an amount, equal to his liabilities both incurred or to be incurred as shall be determined by the division, provided, that in either event the minimum deposit shall be twenty thousand dollars.

4. Any employer who has obtained a license as a self-insurer under the provisions of sub-paragraph (2) (a) of Section 25A who thereafter ceases to be a self-insurer under said sub-paragraph, shall not be entitled to the return of the deposit for a period of at least six months following the date he ceases as a self-insurer as aforesaid, unless he furnishes a single-premium non-cancellable policy as set forth in the foregoing mentioned sub-paragraph.

5. The deposit required by sub-paragraph (2) (a) of Section 25A of chapter 152, or the securities to be deposited with the state treasurer after demand

made by the division in conformity with the provisions of a surety bond furnished by a self-insurer as provided in sub-paragraph (2) (b) of Section 25A shall be in the form of cash or such bonds, notes or other negotiable obligations which may be legal investments for savings banks in this commonwealth as determined from time to time by the commissioner of banks or this commonwealth. Registered securities shall be registered as follows: "Treasurer and Receiver General of the Commonwealth of Massachusetts in trust for the benefit and security of the employee of the self-insurer." Any securities deposited shall be accompanied by an agreement in the form approved by the division and deposited with the securities in the office of the state treasurer.

6. Every self-insurer shall file with the division the names and addresses of all persons or attorneys, at least one of whom shall reside in this state, engaged by it to investigate, settle or adjust claims arising under chapter 152, and any such person or attorney appearing before the division shall have full power and authority to act for the self-insurer in any matter before the division.

7. The failure of any self-insurer to seasonably carry out the terms of an approved agreement of the parties, or of an order, decision or other requirement of the division or for knowingly furnishing the division with inaccurate or misleading information, shall be reasonable cause for revocation of, or refusal to renew the license of a self-insurer.

8. Failure to pay the commonwealth, within thirty days from the time the division certifies the amount chargeable to any licensee for its proportionate share of the expense of carrying out the provisions of chapter 152 so far as they relate to self-insurers, shall be deemed reasonable cause for the revocation of or refusal to renew the license of a self-insurer.

9. An employer holding a license as a self-insurer who proposes to cease doing business in this commonwealth, or proposes to dispose of, by sale or otherwise, the controlling interests of the business for which the license was issued shall seasonably notify the division in writing of such proposed action.

10. Applications for an original license or for a renewal of a license to be a self-insurer shall be filed with the division at least thirty days prior to the proposed effective date of said license.

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FORM S.F. 1. 50M-4-71-049148

MASSACHUSETTS DIVISION OF INDUSTRIAL ACCIDENTS

STANDARD FORM FOR

EMPLOYER'S FIRST REPORT OF INJURY

Approved by I. A. I. A. B. C.

Within 48 hours after the occurrence of an accident, forward this report to the Division of Industrial Accidents, Leverett Saltonstall Building, Government Center, 100 Cambridge Street, Boston, MA. 02202

State's Number For:	File: . . . . .
	Carrier: . . . . .
	Employer: . . . . .
Carrier's File No.	

(The spaces above not to be filled in by Employer)

(PRINT OR TYPE)

Employer

1. Name of Employer . . . . . .
2. Office address: No. and St. . . . . City or Town . . . . . State . . . . . .
3. (a) State name of insurance company with whom you are insured to provide payment to injured employees under the Workmen's Compensation Act . . . . . .
   (b) If not so insured, give number of employees on date of this report . . . . . .
4. Give nature of business (or article manufactured) . . . . . .

Time and Place

5. (a) Location of plant . . . . . Department . . . . . .
   (b) Place where injury occurred . . . . . (c) State if injury occurred on or off employer's premises . . . . . .
6. Date of Injury . . . . . 19. . . . Day of week . . . . . Hour of day . . . . . A.M. . . . . P.M.
7. Date disability began . . . . . 19. . . . A.M. . . . . P.M. 8. Was injured paid in full for this day . . . . . .
9. When did you or foreman first know of injury . . . . . .
10. Name of foreman . . . . . .

11. Name of injured . . . . . Soc. Sec. . . . . .
    (First Name) (Middle Initial) (Last Name)
12. Address: No. and Street . . . . . City or Town . . . . . State . . . . . .
13. Check (✓) Married . . . . Single . . . . Widowed . . . . Widower. . . . Divorced . . . . Male . . . . Female . . . . . .
14. Age . . . . . Did you have on file employment certificate or permit . . . . . .

Injured Person	15. (a) Occupation when injured . . . . . (b) Was this his or her regular occupation . . . . . (If not, state in what department or branch of work regularly employed) . . . . . 16. (a) How long employed by you . . . . . (b) Piece or time worker . . . . . (c) Wages per hour $ . . . . . 17. (a) No. hours worked per day . . . . . (b) Wages per day $ . . . . . (c) No. days worked per week . . . . . (d) Average weekly earnings $ . . . . . (e) Where applicable give number of meals furnished employee each week, and estimated value per day, week of month, of any lodging, fuel or other advantages furnished employee . . . . .
Cause of Injury	18. Machine, tool or thing causing injury . . . . . 19. Kind of power (hand, foot, electrical, steam, etc.) . . . . . 20. Part of machine on which accident occurred . . . . . 21. (a) Was safety appliance or regulation provided . . . . . (b) Was it in use at time . . . . . 22. Was accident caused by injured's failure to use or observe safety appliance or egulation . . . . . 23. Describe fully how accident occurred, and state what employee was doing when injured . . . . 24. Names and addresses of witnesses . . . .
Nature of Injury	25. Nature and location of injury (describe fully exact location of amputations or fractures, right or left) . . . . 26. Probable length of disability . . . . . 27. Has injured returned to work . . . . . If so, date and hour . . . . . At what wage $ . . . . . 28. At what occupation . . . . . 29. Name and address of physician . . . . . Name and address of hospital . . . . .
Fatal Cases	30. Has injured died . . . . . If so, give date of death . . . . .

Firm name . . . . . Signed by . . . . . Official Title . . . . .
Date of this report . . . . . .

FORM S.F.2. 20M-6-72-051872

WORKMEN'S COMPENSATION PHYSICIAN'S OR SURGEON'S FIRST REPORT

(For necessary filing date)

1. Employer .....

.....
(Street) (City) (State)

2. Employee ..... Age ..... (Sex) .....

.....
(Street) (City) (State)

3. Date of Injury? ..... Date of your first treatment? .....

Was patient treated by anyone else? ..... By whom? ..... When? .....

Who engaged your services? .....

4. Employee's statement of cause of illness or injury: .....

.....

.....

(USE REVERSE SIDE IF NECESSARY)

5. Is there any history or evidence present of pre-existing injury or disease and if so, what? .....

.....

6. Give an accurate and complete description of the nature and extent of the injury or disease including objective findings, subjective complaints and diagnosis.

(In the case of a disease, give occupational history and exposure warranting diagnosis with date of onset of symptoms and disability):

.....

.....

.....

7. In your opinion was the accident or exposure as above described a producing or contributing cause of the injury or disease?

8. Hospitalized?. . . . . Date? . . . . . Where? . . . . . .
9. X-ray taken? . . . . . Number of X-rays taken? . . . . . By whom? . . . . . .

was or regular

10. Date employee will be able to return to light work? . . . . . .
11. Explain nature and extent of permanent disability, including any scarring or other disfigurement (if none, so state. If death ensued, give date and cause): . . . . . .
. . . . . .
. . . . . .
. . . . . .
12. Was employee discharged from treatment? . . . . . If so, when? . . . . . .
13. Remarks and description of treatment given by you . . . . . .
. . . . . .
. . . . . .
. . . . . .

ADDITIONAL REPORT FOR EYE INJURIES **Right eye** **Left eye**

O P T I O N A L

Vision in each eye at examination **R20/** . . . . . **L20/** . . . . . .
Mark position of foreign body, cuts or ulcers on diagram . . . . . .
Was either eye previously injured? . . . . . If yes, to what extent and what scars or loss of vision previously existed
. . . . . .
. . . . . .

I am a duly licensed physician in the state of . . . . . .
Date of report . . . . . Signed . . . . . .
PERSONAL SIGNATURE
Office address . . . . . .
(Street) **(City)** **(State)** **(Tel. No.)**

If your treatment of this injury has ended, please submit in space below or on separate sheet, your fully itemized bill for our consideration

IMPORTANT—Was other expense incurred for treatment of this injury? . . . . . .

FORM S.F. 3. 5M-4-71-049148

MASSACHUSETTS DIVISION OF INDUSTRIAL ACCIDENTS

STANDARD FORM FOR

EMPLOYER'S SUPPLEMENTAL REPORT OF INJURY

Approved by I. A. I. A. B. C.

State's Number For:	File: . . . . . Carrier: . . . . . Employer: . . . . .
Carrier's File No. . . . . (The spaces above are not to be filled in by Employer)	

Complete this form in accordance with instructions given below and forward to the Division of Industrial Accidents, Leverett Saltonstall Building, Government Center, 100 Cambridge Street, Boston, MA. 02202.

If Employer's First Report of Injury did not show that the injured had returned to work, an Employer's Supplemental Report of Injury should be completed and filed immediately after return to work of the employee; or at the end of 60 days. In the event of the death of the employee, this report should be filed immediately.

---

1. Name of Employer . . . . . .
2. Office address: No. and St. . . . . City or Town . . . . . State . . . . . .
3. Insured by . . . . . .
4. Name of Injured (in full) . . . . . .
   (First Name) (Middle Initial) (Last Name)
5. Present address: No. and St. . . . . City or Town . . . . . State . . . . . .

6. Date of Injury . . . . . 19 . . . Day of Week . . . . . Hour of day . . . . . A.M. . . . . P.M.

7. Date disability began . . . . . 19 . . . . . A.M . . . . . P.M. . . . . .

8. Has injured returned to work? . . . . . If so, date and hour . . . . . A.M. . . . . P.M. . . . . .

9. Is injured person earning same wages as before injury? . . . . . If not, explain . . . . . .

10. If disability has not terminated, state probable date of termination of disability . . . . . .

11. Has injured died? . . . . . If so, date of death . . . . . A.M. . . . . P.M.

Date of this report . . . . . .

Firm name . . . . . .

Signed by . . . . . Official Title . . . . . .

FORM S.F. 4. 20M-6-72-051872

MASSACHUSETTS DIVISION OF INDUSTRIAL ACCIDENTS

STANDARD FORM FOR

AGREEMENT AS TO COMPENSATION

Approved by I. A. I. A. B. C.

State's Number For:	File: . . . . .
	Carrier: . . . . .
	Employer: . . . . .
Carrier's File No.	
(The spaces above are not to be filled in by Employer)	

. . . . . Employer

. . . . . Employer

. . . . . Insurer or Self-Insured
NAME OF COMPANY

Policy Number . . . . . .

Effective Date of Policy . . . . . .

We . . . . . .
NAME OF EMPLOYEE OR DEPENDENTS

Residing at . . . . . .
NUMBER AND STREET CITY OR TOWN STATE

and . . . . . .
NAME OF INSURER

Office address . . . . . .
NUMBER AND STREET CITY OR TOWN STATE

have reached an agreement in regard to compensation for the injury sustained by said employee and submit the following statement of facts relative thereto:—

Date of injury . . . . . Date disability began . . . . . .

Nature of injury . . . . . .

. . . . . .

. . . . . .

Place of accident . . . . . .

Cause of accident . . . . . .

Probable length of disability . . . . . .

The terms of this agreement under the above facts are as follows:

That the said . . . . . .

Shall receive compensation at the rate of $ . . . . . per week based upon an average weekly wage of $ . . . . . .

under section, ...
(SPECIFY SECTION)

and that said compensation shall be payable from and including . . . . . .

the . . . . . day of . . . . . month 19 . . . . . until terminated in accordance with the provisions of the Workmen's Compensation Law of the State of Massachusetts.

Date of First Payment: . . . . . Amount of First Payment: $ . . . . . .

. . . . . Witness . . . . . .
SIGNATURE OF EMPLOYEE OR DEPENDENT

. . . . . Address By . . . . . .
(NUMBER AND STREET) INSURER

Approved by Board . . . . . By . . . . . Title

Date of Approval . . . . . Date of Agreement . . . . . .

I.A.B.I.

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS
LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

WORKMEN'S COMPENSATION ACT

NOTICE TO EMPLOYEES

As required by General Laws (Ter. Ed.) Chapter 152 Sections 21, 22 and 30 and amendments thereto, this will give you notice that I (we) have provided for payment to our injured employees under the above mentioned chapter by insuring with the

. . . . . .
(Name of Insurer)

. . . . . .
(Address of Insurer)

. . . . . .
(Name of Employer)

. . . . . .
(Address of Employer)

. . . . . .
(Date)

MEDICAL TREATMENT

The above named insurer is required in cases of personal injuries arising out of and in the course of the employment to furnish adequate and reasonable hospital and medical services in accordance with the provisions of the Workmen's Compensation Law.

Employees may select a physician other than the one named by the insurer, but the reasonable cost of the services of the physician selected by the employee and to be paid for by the insurer is subject to the approval of the Industrial Accident Board.

In cases requiring hospital attention, employees are hereby notified that the insurer has arranged for such attention at the

. . . . . .
(Name of Hospital)

. . . . . .
(Address of Hospital)

I.A.B. 2

WORKMEN'S COMPENSATION ACT

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

NOTICE OF CLAIM OF COMMON LAW RIGHTS

. . . . . 19 . . . .

To . . . . . .
Name of employer

This is to notify you that I claim my right of action at common law (or under the law of any other jurisdiction in respect to an injury therein occurring) to recover damages for personal injuries. This notice is given to you under the provisions of General Laws (Ter. Ed.), Chapter 152, section 24, as amended.

. . . . . .
Signature of employee

Address, ...
City or Town, Street and No.

I.A.B. 3

WORKMEN'S COMPENSATION ACT

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

NOTICE OF WAIVER OF RIGHTS UNDER COMMON LAW PREVIOUSLY CLAIMED

. . . . . 19. . . . .

To . . . . . , Employer.

This is to notify you that I waive my rights under the common law (or under the law of any other jurisdiction in respect to an injury therein occuring) previously claimed by former notice, and now claim my rights under the workmen's compensation act. This notice is given to you under the provisions of General Laws (Ter. Ed.), Chapter 152, section 24, as amended.

. . . . . .
Signature of employee

Address, ...
City or town, street and No.

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS
LEVERETT SALTONSTALL BUILDING, GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MASSACHUSETTS 02202

AGREEMENT FOR REDEEMING LIABILITY BY LUMP SUM UNDER G.L. CH. 152 SEC. 48

BOARD NUMBER _____ EMPLOYEE _____

INSURER OR SELF-INSURER _____ EMPLOYER _____

INSURER'S ADDRESS _____ TOTAL DEDUCTIONS _____

AMOUNT OF LUMP SUM _____ NET TO CLAIMANT _____

TOTAL PAYMENTS _____ INSURER'S CLAIM # _____

Received of _____ the LUMP SUM of _____ _____ dollars and _____ cents ($_____) making with weekly payments already received by me, the total sum of _____ _____ dollars and _____ cents ($_____). Said payments are received in redemption of the liability for all weekly payments now or in the future due me under the Workmen's Compensation Act, for all injuries received by _____ on or about _____ while in the employ of _____ subject to approval of the Division of Industrial Accidents.

_____
Witness's Signature — Claimant's Signature

_____
Witness's Address — Claimant's Address

_____
Date of Agreement — Insurer or Self-Insurer

BY: _____

STRIKE OUT IF NOT APPLICABLE

I understand that from the LUMP SUM amount stated above, the amounts listed below will be deducted and paid to the following parties:

Lawyer's Fee	Name	Address
1. $		
2. $		
3. $		
4. $		
5. $		
6. $		
7. $		

STRIKE OUT IF NOT APPLICABLE

I understand that, in addition to the LUMP SUM amount as stated above, the insurer or self-insurer will pay all outstanding reasonable medical bills incurred as of this date.

I understand that after all of the above deductions, including lawyers' fees and other liens, I will receive the net amount of $_____
I further understand that this is a complete and final settlement of my claim and that I will not be able to reopen my claim or seek further benefits because of this injury. I am fully satisfied with this settlement.

Witness's Signature

Claimant's Signature

35M-11-72-070504
1.A.B.-4

AGREEMENT FOR REDEEMING LIABILITY BY LUMP SUM

EMPLOYEE

Age: _____ Average Weekly Wage: $ _____ Dependents: _____ Comp. Rate: _____

Social Security No.: _____ On Social Sec. Disability? Yes _____ No _____

Occupation: _____ If Yes, from what date? _____

INJURY

Nature: _____

Place and Date of all Injuries Included: _____

_____

Cause: _____

LIABILITY

Yes: _____ No: _____ If No, Reason: _____

_____

If accepted, what is pending issue?: _____

MEDICAL

Original Diagnosis: _____

Present Medical Condition: _____

Present Work Capacity: _____

_____

PERTINENT MEDICAL REPORTS AND BILLS SHOULD BE ATTACHED HERETO

COMPENSATION

§ 34 $ _____ § 35A $ _____ § 34A $ _____

PAID § 35 $ _____ § 36 $ _____ § 31 $ _____

GIVE BRIEF HISTORY AND REASONS SETTLEMENT IS IN THE EMPLOYEE'S BEST INTEREST:
(Specify any requested allocation of claimant's net amount)

_____ _____

Counsel for Insurer Counsel for Employee

THIS FORM MUST BE TYPED OR LEGIBLY PRINTED

I.A.B. 5

WORKMEN'S COMPENSATION ACT

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

General Laws (Ter. Ed.), Chapter 152, section 22, provides that an employer ceasing to be insured, shall, on or before the day on which his policy expires, give written or printed notice thereof in the form prescribed by the Division of Industrial Accidents to all persons under contract of hire with him, and he shall file a copy of said notice with the Industrial Accident Board. In case of the renewal of the policy, no notice shall be required. Following is the form:—

NOTICE

This is to give you notice that I (we) have ceased to be insured in any insurance company under General Laws (Ter. Ed.), Chapter 152, as amended, and that the policy formerly held by me expired on

. . . . . .
(date)

or is to expire on

. . . . . .
(date)

. . . . . .
Name of Employer

Address, ...
City or town, street and No.

I.A.B. 6

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

To . . . . . .
. . . . . .
. . . . . .

YOU ARE HEREBY REQUIRED, in the name of the Commonwealth of Massachusetts, to appear at a hearing before the Industrial Accident Board to be held at . . . . . on the . . . . . day of . . . . . at . . . . . o'clock in the . . . . . noon, and from day to day thereafter, until the aforesaid hearing is concluded by said Industrial Accident Board to give evidence of what you know relating to . . . . . then and there to be heard and tried between . . . . . Employee or Dependent, and . . . . . Insurer, and you are required to bring with you . . . . . .

HEREOF FAIL NOT, as you will answer your default under the pains and penalties in the law in that behalf made and provided.

DATED AT . . . . . the . . . . . day of . . . . . A.D., 19 . . . . . .

. . . . . .
Justice of the Peace

. . . . . .
Notary Public

I.A.B. 7

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS
LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

. . . . . Employee

. . . . . Employer

. . . . . Insurer

. . . . . Case Number

REQUEST FOR APPOINTMENT OF IMPARTIAL PHYSICIAN

In the above-entitled case request is hereby made that an impartial physician be appointed under the provisions of G. L., Ter. Ed., Chapter 152, section 9 to examine the employee and to report.

In support of this request the following reasons are given therefor: (here state fully the reasons for the request)

. . . . . .

. . . . . .

. . . . . .

. . . . . .

. . . . . .
Employee or Insurer

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

WORKMEN'S COMPENSATION ACT:
GENERAL LAWS (TER. ED.), CHAPTER 152

CLAIM FOR COMPENSATION FOR INJURY

Note: This claim is to be filed with the Division of Industrial Accidents and may be sent by mail; at the time of filing a copy thereof should also be sent by the employee to the insurance company or self-insurer. The claim should be made within one year after the occurrence of injury. General Laws, (Ter. Ed.), Chapter 152, Sections 41 and 49.

This is to notify you . . . . . .
(Write in Name of Insurer or Self-Insurer)
that I claim compensation from you under the Workmen's Compensation Act, General Laws, (Ter. Ed.), Chapter 152 and amendments thereto, for personal injuries sustained while in the employ of

. . . . . .
(Write in Name of Employer)

. . . . . .
(Write in Address of Employer)

Date of Injury . . . . . .
(Date and Time of Day)

Place of Injury . . . . . .
(Describe Building or Place)

. . . . . .

Cause of Injury . . . . . .

. . . . . .

. . . . . .

Nature of Injury . . . . . .

. . . . . .

. . . . . .

. . . . .	. . . . .
(Name of Attorney, if any)	(Signature of Employee or Claimant)
. . . . .	. . . . .
(Street and Number)	(Street and Number)
. . . . .	. . . . .
(City or Town)	(City or Town)
	. . . . .
	(Date of this Claim)

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

WORKMEN'S COMPENSATION ACT:
GENERAL LAWS (TER. ED.), CHAPTER 152

NOTICE OF INJURY

Note: Under the terms of the Workmen's Compensation Act, notice of the time, place and cause of the injury must be given to the employer or the insurer as soon as practicable after the happening thereof. The following is a form of the notice to be given under the above-quoted requirement.

This is to notify you .....
(Employer)

that I received a personal injury while in your employ on the .....

day of .....19....., at or about .....
a. m.
p. m.

in the city (town) of .....

in or on .....
(Describe building or place of employment by St. and No.)

.....

and that the accident was caused to me by reason of .....

.....
(Describe Cause of Injury)

.....

.....

.....
Signature of Employee

.....
Address

.....
City or Town

.....
Date of Notice

I.A.B. 12

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

WORKMEN'S COMPENSATION ACT:
GENERAL LAWS (TER. ED.), CHAPTER 152

. . . . . Board Number

. . . . . Employee

. . . . . Employer

. . . . . Insurer or Self-Insurer

APPLICATION FOR REVIEW OF CLAIM BEFORE REVIEWING BOARD

Division of Industrial Accidents,
100 Cambridge Street, Boston, Mass.

The undersigned, as provided in General Laws, (Ter. Ed.), Chapter 152, sections 8 and 10, makes application for a review of the findings of the Board Member in the above-named case.

The claim for review is based on the following grounds:

. . . . . .
Signature of Party Claiming Review

. . . . . .
Date

. . . . . .
Address, Street and Number

. . . . . .
City or Town

Note: "No party shall as of right be entitled to a second hearing upon questions of fact." (General Laws. (Ter. Ed.), Chapter 152, Section 10).

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

WORKMEN'S COMPENSATION ACT:
GENERAL LAWS (TER. ED.), CHAPTER 152

Insurer's Claim No. . . . . .Policy No. . . . . .Effective Date of Policy. . . . . .

. . . . . Board Number

. . . . . Employee

. . . . . Employer

. . . . . Insurer or Self-Insurer

. . . . . Third Party

. . . . . Third Party Insurer, if any

PETITION FOR LEAVE TO SETTLE BY AGREEMENT WITH THIRD PARTY

1. In accordance with the requirements of General Laws (Ter. Ed.) Chapter 152, Section 15, as amended, the Insurer (or Employee) hereby petitions the Industrial Accident Board for approval of a settlement, by agreement of action under Section 15 against the third party named herein, in the amount of (specify amount of settlement).
2. Set forth, in sufficient detail, the following:
   a. Date and circumstances of the accident.
   b. The nature and extent of injuries.
   c. The periods of disability and the compensation actually paid therefore, total, partial, dependency, and specific, and estimate as to probable further payments required, if any.
   d. Medical expenditures, if any, sought to be recovered out of the settlement. Full details as to dates and character of services rendered, amounts expended thereon and to whom paid, must be given.
   e. The amount of costs and interest recovered.
   f. Any agreement between the compensation insurer and the employee as to the sharing of expenses of any attorney's fees in connection with the third party.
3. State the reasons for and advisability of settlement by agreement.
4. Summarize as to the amount of the settlement, the amount to be received by the Insurer out of the settlement for compensation payments made including the amount of medical benefits furnished by Insurer.
5. Specify the amount, if any, to be received by the Employee out of the proceeds of the settlement.

. . . . . .
Name of Insurer or Self Insurer

By . . . . . .
Name of Representative

. . . . . .
Date

. . . . . .
Name of Employee

I.A.B. 14

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

WORKMEN'S COMPENSATION ACT:
GENERAL LAWS (TER. ED.), CHAPTER 152

. . . . . Board Number

. . . . . Employee

. . . . . Employer

. . . . . Insurer or Self-Insurer

. . . . . Date of Injury

APPEARANCE OF COUNSEL

I appear as attorney for the employee in the aboved-named case.

. . . . . .
Signature of Attorney

. . . . . .
Address

. . . . . .
Telephone Number

. . . . . .
Date

I.A.B. 15.25M-6-66-043142

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING, GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MASSACHUSETTS 02202

WORKMEN'S COMPENSATION ACT: GENERAL LAWS (TER. ED.), CHAPTER 152

Insurer's Claim Number ..... Policy Number ..... Effective Date of Policy .....

..... Board Number

..... Employee

..... Employer

..... Insurer or Self-Insurer

EMPLOYEE'S AGREEMENT TO DISCONTINUANCE OF COMPENSATION

..... 19 .....

I hereby agree that the insurance company may stop my compensation on this date. I do this with the understanding between us that this is not a settlement of my case and shall not prevent me from claiming further compensation if I hereafter believe I am entitled to it.

Signed .....
Signature of Employee

I, ... of No. ..... Street.

..... Mass., have read over and explained the above agreement

to the said ..... and subscribe my name as witness

to ..... signature.

Signed .....
Signature of Witness

The following information must be furnished by the insurer in every case:

Date of Injury ..... Average Weekly Wage .....

Compensation paid under Sections 34, 34A, 35, 35A, and 36

Section	From (date)	To (date)	Number of weeks	Rate	Amount
34					
34A					
35					
35A					
36					
30					

Final hospital and medical reports are attached. This form must be filed with the Division immediately after the last payment to employee.

I.A.B. 17. 5M-2-67-944468

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING, GOVERNMENT CENTER

100 CAMBRIDGE STREET

BOSTON, MASSACHUSETTS 02202

WORKMEN'S COMPENSATION ACT: GENERAL LAWS (TER. ED.), CHAPTER 152

Insurer's Claim Number ..... Policy Number ..... Effective Date of Policy .....

..... Board Number

..... Employee

..... Employee's latest address

..... Employer

..... Insurer or Self-Insurer

Date of injury ..... Date of last payment .....

Nature of injury .....

.....

Note: No application for permission to terminate compensation payments will be considered unless the agreement in regard to compensation has been filed with the Division

APPLICATION FOR DISCONTINUANCE OF COMPENSATION PAYMENTS

The insurer hereby applies to the division or a member thereof, as provided by General Laws (Ter. Ed.) Chapter 152, Section 29, as amended, for permission to discontinue compensation payments in the above named case.

This application is based upon the following grounds:

A copy of all hospital and medical reports not earlier filed with the Division are attached.

(Signed) . . . . . .
Name of Insurer or Self-Insurer

By . . . . . .
Signature of Representative

MEMORANDUM OF DISPOSITION OF APPLICATION

Approved
Disapproved
Date . . . . . .
Remarks:

DIVISION OF INDUSTRIAL ACCIDENTS
By . . . . . .

I.A.B. 18

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

. . . . . Employee

. . . . . Employer

. . . . . Insurer

. . . . . I.A.B. Number

. . . . . .Insurer's Number

NOTICE OF APPROVAL OF DISCONTINUANCE OF COMPENSATION PAYMENTS

Notice is hereby given that the Industrial Accident Board approves the discontinuance of compensation payments to the above named employee, in accordance with G. L. 152, Section 29.

This approval is based on the following grounds:

Effective date of approval:

The right is reserved to the parties to have the above matter determined by hearing.

Industrial Accident Board,

Secretary,

Copy to:

I.A.B. 19

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MASS. 02202

. . . . . Employee

. . . . . Employer

. . . . . Insurer

. . . . . Case No.

NOTICE OF DISAPPROVAL OF DISCONTINUANCE OF COMPENSATION PAYMENTS

Notice is hereby given that the Industrial Accident Board disapproves the discontinuance of compensation payments in the above named case, under the provisions of S. 29 of the Workmen's Compensation Act.

The disapproval is based on the following grounds:

The right is reserved to the parties to have the above named matter determined by hearing.

INDUSTRIAL ACCIDENT BOARD

Secretary.

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

WORKMEN'S COMPENSATION ACT:
GENERAL LAWS (TER. ED.), CHAPTER 152

Insurer's Claim No. . . . . Policy No. . . . . Effective Date of Policy . . . . . .
. . . . . Board Number
. . . . . Employee
. . . . . Employer
. . . . . Insurer
. . . . . Third Party
. . . . . Third Party Insurer, if any

INSURER'S REPORT OF RECOVERY FROM THIRD PARTY UNDER GENERAL LAWS (TER. ED.), CHAPTER 152, SECTION 15

In accordance with Rule VIII-1. of the Division of Industrial Accidents, the insurer hereby reports that it proceeded at law against the third party involved, in the name of . . . . . .
. . . . . .
in the Court and has obtained judgment (or entered into an agreement for judgment) in the sum of . . . . . dollars. The insurer claims out of the amount of said recovery the sume of . . . . . dollars on account of compensation and medical benefits paid to the employee. Set forth, in sufficient detail, the following:

a. The periods of disability and the compensation actually paid therefore, total, partial, dependency, and specific, and estimate as to probable further payments required, if any.
b. Medical expenditures, if any, sought to be recovered out of the settlement. Full details as to dates and character of services rendered, amounts expended thereon and to whom paid must be given.
c. The amount of costs and interest recovered.
d. Any agreement between the compensation insurer and the employee as to the sharing of expense of any attorney's fee in connection with the third party.

. . . . . .
Date

. . . . . .
Name of Insurer

By . . . . . .
Signature of Representative

I.A.B. 24

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

. . . . . Employee

. . . . . Employer

. . . . . Insurer

. . . . . Case Number

PETITION FOR REHEARING UNDER G. L. (TER. ED.) C. 152, S. 12, P.2

In the above-entitled case in which it appears that compensation was paid under either an agreement of the parties or a finding of the Board or Member and a subsequent finding has been made that the employee's incapacity has ceased, the employee hereby petitions for a further hearing, alleging that he is further incapacitated as result of the injury for which he was paid compensation. Employee alleges that (here state briefly the basis of the claim of further incapacity alleged)

. . . . . .

. . . . . .

. . . . . .

In support hereof the employee submits (or affidavits of) . . . . . .

. . . . . .

. . . . . .

. . . . . .
Employee

MASSACHUSETTS DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

NOTICE TO DIVISION OF INDUSTRIAL ACCIDENTS OF THE RESUMPTION OF COMPENSATION PAYMENTS

..... Employee Insurer's Claim Number .....

..... Address of Employee Policy Number .....

..... Employer Effective Date of Policy .....

..... Insurer Board Number .....

The above named employee has had a recurrence of incapacity and compensation payments to him have been resumed and will be continued subject to the provisions of the Workmen's Compensation Act.

Date of injury .....

Date recurrence of disability began .....

Rate of Compensation .....

..... Insurer

By .....

Title .....

Date of resumption of payments .....

MEDICAL REPORTS TO DATE ARE ATTACHED

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER
100 CAMBRIDGE STREET, BOSTON, MA. 02202

Date . . . . . .

. . . . . Employer

. . . . . Insurer

NOTICE OF INSURER'S DESIRE TO CANCEL POLICY AND NOTICE OF CANCELLATION

Your are hereby notified that the insurer desires to cancel Policy No. . . . . dated . . . . . issued to you by designation of the Commissioner of Insurance under the provision of General Laws (Ter. Ed.) Chapter 152, Section 65A, and you are hereby notified that the insurer does hereby give cancellation notice in accordance with General Laws (Ter. Ed.) Chapter 152, Section 65B, and the Rules of the Division of Industrial Accidents.

The reason or reasons for cancellation are . . . . . .

. . . . . .

. . . . . .

. . . . . .

The cancellation is effective, subject to General Laws (Ter. Ed.) Chapter 152, Section 65B, and the rules of the Division of Industrial Accidents, at 12:00 A.M., Standard Time, at the locations stated in the policy, on the eleventh day after receipt by the insured of this notice.

. . . . . .
Name of Insurer

(OVER)

Applicable Rules of the Division of Industrial Accidents, namely, Rule XII, nos. 1 to 3, entitled "Cancellation of Policies".

1. Any insurer desiring to cancel policy of insurance issued under Section 65A shall state in writing in the form prescribed by the Division (see Mass. I.A.B. Form no. 26) its desire to cancel such policy and give notice to the employer thereof by sending by registered mail, return receipt requested, a copy of said writing and thereafter file with the Division a copy of said writing together with such receipt or other sufficient evidence of its receipt by the employer.

2. Compliance by the insurer with the provisions of the foregoing section shall be effective to cancel any such policy on the tenth day after the receipt by the employer of such notice unless (1) the employer shall have, within said ten day period, filed with the department objections to such cancellation or (2) that the Division shall have ordered otherwise for reasonable cause.

3. Where the employer files objections in writing within ten days after the receipt of notice from the insurance company of its desire to cancel a policy issued under Section 65A or where the Division for reasonable cause declines to approve any cancellation, the case shall be set for hearing as soon as possible thereafter and such hearing and subsequent proceedings shall be conducted in accordance with Sections 16 and 8 of the Chapter and the Rules of the Division.

FORM I.A.B. 29. 20M-6-72-051872

MASSACHUSETTS DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING, 100 CAMBRIDGE STREET
GOVERNMENT CENTER, BOSTON, MASSACHUSETTS 02202

AGREEMENT IN REGARD TO ADDITIONAL COMPENSATION UNDER G. L. (TER. ED.) CHAPTER 152, SEC. 35A

PAYABLE WHERE THE EMPLOYEE HAS DEPENDENTS

..... Employee Insurer's No. .....

..... Employer Policy Number .....

..... Insurance Carrier Effective Date of Policy .....
Name of Company

.....
Name of Employee or Dependents

Residing at .....
Number and Street City or Town State

and .....
Name of Insurer

Office address . . . . . .
Number and Street City or Town State

have reached an agreement in regard to compensation payable under General Laws, Chapter 152, Section 35A, as enacted by Chapter 717 of the Acts of 1945.

Date of Injury . . . . . Date disability began . . . . . .

Based on the employee's certificate of dependency status dated . . . . . which is attached hereto and made a part of this agreement, the insurer agrees to pay and the employee to receive as additional compensation under the provisions of General Laws (Ter. Ed.) Chapter 152, Sec. 35A the sum of $ . . . . . weekly, which is to be added to the weekly compensation paid to the employee under Sections 34, 34A, and 35 of Chapter 152, as amended, until terminated in accordance with the provisions of the Workmen's Compensation Law of the Commonwealth of Massachusetts.

Date of First Payment
this Agreement . . . . . .

Amount of First Payment under
this Agreement $ . . . . . .

. . . . . WITNESS

. . . . . Employee or Dependent

. . . . . Address
Number and Street

By . . . . . Insurer

Approved by Board . . . . . .

By . . . . . Title

Date of Approval of this Agreement . . . . . .

Date of this Agreement . . . . . .

FORM I.A.B. 29A. 15M-6-72-051872

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS

LEVERETT SALTONSTALL BUILDING, GOVERNMENT CENTER

100 CAMBRIDGE STREET, BOSTON, MASSACHUSETTS 02202

EMPLOYEE'S CERTIFICATE OF DEPENDENCY STATUS

INSTRUCTIONS

This form is to be executed in every case of compensable disability.

Required by the Division of Industrial Accidents to determine the employee's rights, if any, to additional weekly compensation for each dependent under the provisions of General Laws (Ter. Ed.) Chapter 152, Section 35a.

The information required by this certificate is to be furnished by the employee and signed by him. The certificate is to to taken in triplicate, all three copies to bear original signature. The original will be filed promptly with the Division of Industrial Accidents, the duplicate retained by the insurer, and the triplicate kept by employee.

. . . . . *Employee Ins. No.* . . . . . .

. . . . . *Employer I.A.B. No.* . . . . . .

. . . . . *Insurer or Self-Insurer*

. . . . . *Date of injury*

1. Were you married at the time of your injury? Yes . . . . . No . . . . . .
2. If your answer to question No. 1 is *yes*, give the following information:
   (*a*) *Your wife's maiden name or your husband's full name* . . . . . .
   (*b*) *The date and place of your marriage* . . . . . .
   (*c*) *Was your wife (or husband) living with you at the time of your injury? Yes* . . . . . *No* . . . . . .
   (*d*) *If you are a woman employee state whether your husband was mentally or physically incapacitated from earning at the time of your injury* . . . . . .

3. (A) Give the names, dates and places of birth of any of your children under the age of eighteen years (or over said age but physically or mentally incapacitated from earning), who were living with you at the time of your injury.

NAME	*DATE OF BIRTH*	*PLACE OF BIRTH*
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

(B) If you have any children under the age of eighteen years who were *not* living with you at the time of your injury, whom you are bound or ordered by law, decree or order of court, or by any other lawful requirement, to support, give the name, date and place of birth, present address and name of the person or institution having care of each such child.

.....

.....

4. If, at the time of injury, you were under the age of eighteen years and unmarried, give the date and place of your birth and the names and addresses of your living parents.

Your date of birth ..... *Place of birth* .....

Father's name ..... *Mother's name* .....

Address of Parents

5. If your answers to all of the foregoing items are that you have no dependents in the classes mentioned, was there any person wholly dependent upon you for support and if so, give his or her name and address, and explain fully the situation.

.....

6. I declare that the foregoing statements are true to the best of my knowledge and belief.

Witness to employee's signature:

....

Employee's Signature

....

Street and No.

Date of Signature ....

City and State

.....

Location of Insurers' branch office

I.A.B. 31 75M-12-69-044953

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS
LEVERETT SALTONSTALL BUILDING
GOVERNMENT CENTER, 100 CAMBRIDGE STREET
BOSTON, MASSACHUSETTS 02202

WORKMEN'S COMPENSATION ACT: GENERAL LAWS (TER. ED.), CHAPTER 152

Employee: . . . . . Board Number: . . . . . .
Employer: . . . . . .
Insurer (Self-Insurer): . . . . . Insurer's Number: . . . . . .

CLAIM – REQUEST – APPEARANCE

Note: The original of this form must be completed and filed with the Division and three (3) copies thereof must be sent to the insurance company or self-insurer. Failure to comply with this procedure will result in delayed action on the employee's claim and request. Claim should be made within one year after the injury. General Laws, Chapter 152, Sections 41 and 49.

TO BE COMPLETED BY EMPLOYEE (OR PERSON IN HIS BEHALF)

1. Date and Time of Injury . . . . . .
2. Place of Injury (Describe Building, Premises, Address) . . . . . .
. . . . . .
3. How did injury occur? Describe in detail) . . . . . .
. . . . . .
. . . . . .
4. When and to whom did you report injury? . . . . . .
5. State nature of injury . . . . . .
6. Is hearing requested at this time? (Check): Yes ( ) No ( )
7. If hearing is requested, indicate period(s) of compensation claimed (such as total, partial total and permanent, specific, dependency), or other reason for Request . . . . . .
. . . . . .

APPEARANCE OF COUNSEL

..... (Signature of Attorney)	..... (Signature of Employee or Claimant)
..... (Street and Number)	..... (Street and Number)
..... (City or Town)	..... (City or Town)
..... (Telephone Number)	..... (Date of Claim)

INSURER'S REPLY

Note: Within 21 days of the receipt of this Claim, the Insurer or Self-Insurer must complete this portion in triplicate, forwarding one copy to the Division, one copy to the employee (*or his counsel, if any*), and retain one copy.

A. *Insurer Admits*:
(Check or Insert)
1. Personal Injury .....
2. Disability From .....
To .....
3. Causal Relation .....
4. Dependency .....
5. Other .....

B. *Insurer Denies*:
(Check or Insert)
1. Personal Injury .....
2. Disability From .....
To .....
3. Causal Relation .....
4. Proper Notice .....
5. Proper Claim .....
6. Other .....

BY .....

TITLE .....

FORM I.A.B. 50. 1M-6-71-049760

The Commonwealth of Massachusetts

DIVISION OF INDUSTRIAL ACCIDENTS
OFFICE OF SELF-INSURANCE

LEVERETT SALTONSTALL BUILDING, 100 CAMBRIDGE STREET
GOVERNMENT CENTER, BOSTON, MASS. 02202

Employer's Application for the Privilege of Being a Self-Insurer

The information furnished by the employer in this application is confidential and is to be used only for the purpose of determining the ability of the employer to be a self-insurer.

Mail To:	DO NOT WRITE IN THIS SPACE
Leverett Saltonstall Building, Government Center, 100 Cambridge Street Boston, Mass. 02202	LIC. NO. _____ S _____ EFF. DATE _____ PAR. _____

The undersigned, an employer subject to the provisions of Chapter 152 of the General Laws, hereby applies for a license as a SELF-INSURER as provided by said chapter and submits the following information to the division.

Name of employer..... State of Incorporation .....
Location of principal office in Mass. .....
Location of principal office outside Mass. .....
Legal entity of employer .....
(state whether individual, corporation, partnership, trustee, etc.)
Kind of business carried on .....
.....
.....
.....

Names and addresses of owners, officers, directors, or members conducting the business.

Name	Address	City	State
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

Total number of employees engaged in the business of the employer in Massachusetts during the last fiscal year of the employer .....

Total annual payroll for all employees in Massachusetts except officers of the business, during the last fiscal year of the employer .....

How long have you been engaged in business in Mass.? .....

Statement of assets and liabilities of employer at the close of the last fiscal year

ASSETS		LIABILITIES	
Cash	.....	Accounts payable	.....
Accounts receivable	.....	Notes payable	.....
Notes receivable	.....	Mortgages	.....
Merchandise	.....	Bonds	.....
Supplies	.....	Capital stock	.....
Real estate	.....	Surplus	.....
Machinery	.....	Other indebtedness	.....
Motor vehicles and trailers	.....		
Equipment and tools	.....		
Furniture and fixtures	.....		
Patent rights, trademarks, copyrights	.....		
Other intangibles	.....		

Explanatory statements or schedules may be made on separate sheets and filed with this application.

Schedule 1

Assets of employer owned and used in business in Massachusetts

Location	Real Estate	Machinery	Motor Vehicles and Trailers
Other tangible property	**Amount of mortgage on real estate**	**Other encumbrances on real estate**	**Encumbrances on other assets**

Is the employer a subsidiary of, or affiliated in any way with any other employer within or without Massachusetts? .....

If so, give name and address .....

.....

.....

.....

Classification of Operations	Code No.	No. of Employees	Payroll for Last Year	Estimated Payroll for Next Year

REINSURANCE NOW CARRIED

(CHECK ONE)

AGGREGATE EXCESS ☐ CATASTROPHE ☐

Attaching Point of Reinsurance ..... Maximum Amount of Coverage.....

Name of Reinsurer..... Effective date of policy .....

Outstanding Liabilities from previous years	Amount of outstanding liabilities Covered by reinsurance.

YEAR	AMOUNT	AMOUNT
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

Amount of reserve carried for future payments on liabilities incurred from past accidents .....

Type of reserve (check)

☐ Cash ☐ Book ☐ None

Have you fulfilled all safety requirements of the Department of Labor and Industries?

Do you maintain a hospital or other first aid facilities in connection with your place of business?

If so, describe the service and equipment available.

If not, state what arrangements you have made or will agree to make for medical services to injured employees.

Do you agree to furnish the division such additional information as the department may require?

In the event of approval of this application, what do you intend to deposit with the state treasurer as security?

(1) Securities.
(2) Security Bond.

I/we the undersigned of the above named ..... state under the penalties of perjury that I/we have carefully examined the foregoing application, and the information contained therein is true to the best of my/our knowledge and belief.

Subscribed to this ..... day of ..... , under the penalties of perjury.

Signature	Title
.....	.....
.....	.....

IMPORTANT:

ALL THE INFORMATION REQUESTED ON THIS FORM MUST BE FURNISHED BEFORE THIS APPLICATION IS RETURNED TO THE OFFICE OF SELF-INSURANCE.

8062 27

ACME
BOOKBINDING CO. INC.

SEP 28 1990

100 CAMBRIDGE STREET
CHARLESTOWN, MASS.